Craven, Allen Barry
Davis, Eugene Baughman
Dolaghan, John
Evans, George Wesley, Jr.
Franklin, Robert Charles
Glynn, John Joseph
Goetz, Herbert Max, Jr.
Kaelberer, John Herbert
Kase, Mark
Keefe, Lawrence Francis
Magor, Warren Frank
McMorrow, James Edward
McPhail, Clark Buckeridge
Murray, George P.
Niederhuth, Wayne Lee
O'Brien, Eugene Christopher
Parker, Alton Morgan, Jr.
Piirto, John Arthur
Respess, Thomas Bryan, Jr.
Six, Jack Edwin
Spencer, Carroll Roger
Struthers, Basil Hathaway
Takesian, Eli
Vantassel, Lowell Warren
Whitaker, Frederick Eugene
Young, Christopher Breese

CIVIL ENGINEER CORPS

Barczak, Jerome John
Bauer, John Gerald
Boyce, Heyward Easter, III
Busche, Robert Ernest
Chin, William
Clearwater, John Livingston
Cope, Ronald Philip
Crisp, Hugh Albert
Dunn, Jerome Richard
Earnst, Rossell Albert
Enderbrock, Frank Louis, III
Fegley, Charles E., III
Fraser, John Cameron, Jr.
Gawarkiewicz, Joseph J., III
Godsey, Jack Lynford
Grady, Noel A., Jr.
Johnson, Don Paul
Kelch, John Anthony, Jr.
Kirkpatrick, James Darrow
Klein, Dale Mathew
Ledder, William Robert
Lewis, Edmund Frederic
McMenamin, Lester Edgar, Jr.
McNeill, James Edward
Morton, James Franklin
Murphy, Frank James
Nash, Archie Ray
Shirley, Ronald Gene
Siegle, Richard Lee
Totten, John Charles
Westcott, John Allen

JUDGE ADVOCATE GENERAL'S CORPS

Brown, Charles Ellsworth, II
Christian, Alvern Dale
Cowell, Marvin J., Jr.
Drew, Kenneth W.
Eoff, Albert William, II
Farrell, Lawrence Michael
Flynn, Thomas Edward
Gladis, John Terence
Googe, James Percival, Jr.
Gresens, Larry Wendell
Grunawalt, Richard Jack
Howay, John Witter
King, Melbourne Paul
Laitsch, Lowell Charles
Legg, Billy Joe
Mario, David Armone
Solomon, Selig
Tobin, James Michael
Wille, Paul Alexander
Woods, Theodore Kennedy, Jr.

MEDICAL SERVICE CORPS

Bach, Gale W.
Baldauf, George William
Bertka, Robert Eugene
Brideau, Donald Joseph
Bryant, Eugene Marcus, Jr.
Clark, James Lloyd
Collier, Patrick Joseph
Condon, Earl Nessley
Correll, Joseph Mack
Dietz, Bruce Johnson
Erwin, Richard Eugene
Gobbel, Henry Donald
Goodson, James Edward
Halverson, Charles William
Hatten, Ann Cherry
Joseph, Sammy William
Kane, George Patrick
Kessler, Raymond Bernard
Lachapelle, Norman C.
Lawson, Donald Ray
Leadford, William Malcolm
Littner, Henry David
McFee, Charles Andrew
Millard, George Wayne
Moore, Charles Jerome
Mullinix, Chloe Allen
Nelson, Paul Delay
Nourigat, Earl Robert
Peckenpaugh, Normand Lee
Rooney, Mary Louise
Rucker, Thomas Jackson
Shuler, Donald Eugene
Sickels, Forman J.
Sowers, Hubert Harris, Jr.
Springer, Martha Jayne
Stephens, Bobby Lee
Surface, Robert Lee
Swindall, Victor Arthur
Tandy, Roy William, Jr.
Wherry, Robert James, Jr.
White, Robert Lanon
Zseltvay, Andrew Joseph, Jr.

NURSE CORPS

Adams, Louise J.
Aunan, Patricia M.
Beveridge, Robina Wylie
Burrell, Margaret Mary
Bynum, Joan Carolyn
Carson, Eva Frances
Chisholm, Marie Ann
Chute, Judith Richards
Damiani, Margaret Carmella
Eisiminger, Vetah Maude
Emond, Lucille Gertrude
Gillespie, Jacquelin Craig
Golebiewski, Rita Jane
Gomes, Alma Marie
Haile, Evelyn
Hall, Mary Fields
Hines, Alyce Marian
Jacobson, Dorothy Mae
Jones, Beverly Jean
Macenery, Joan Marie
Marcotte, Natalie Martha G.
McGuckin, Dorothy Elizabeth
Miller, Eleanor Jane
Mooney, Geraldine Theresa
Moris, Patricia Joan
Morton, Jo Ann
Neth, Norma Deane
Noble, Frances Ann
Pechulis, Verna Marie
Sampson, Natalie Teresa
Shepherd, Luana
Stuart, Irene Margaret
Whitesell, Margaret Louise
Wilson, Elizabeth Ann
Wilson, Lela Belle
Yelle, Dorothy Ann

CONFIRMATION

Executive nomination confirmed by the Senate March 26, 1974:

FEDERAL HOME LOAN BANK BOARD

Garth Marston, of Washington, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1975.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Tuesday, March 26, 1974*

The House met at 12 o'clock noon.

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

Let love be genuine; hate what is evil, hold fast to what is good.—Romans 12: 9.

O God, who art the light of the minds that know Thee, the life of the souls that love Thee, and the strength of the hands that serve Thee, grant that we may so live with Thee that Thy light may be in our minds, Thy life in our souls, and Thy strength in our hands as we face the difficult duties of these demanding days.

Help us to serve Thee in the spirit of true patriotism with reverence in our minds for that which is high and holy and with a response in our hearts to the needs of others. Give clarity to our words, compassion to our hearts, and courage to our minds that we may make patriotism resplendent with life and loyalty and love.

In the mood of the Master we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

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

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

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON HOUSE JOINT RESOLUTION 941, SUPPLEMENTAL APPROPRIATION FOR VETERANS' ADMINISTRATION FOR FISCAL YEAR 1974

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on House Joint Resolution 941, making an urgent supplemental appropriation for the Veterans' Administration for the fiscal year ending June 30, 1974, and for other purposes.

Mr. TALCOTT reserved all points of order on the joint resolution.

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

There was no objection.

PRINTING ADDITIONAL COPIES OF REPORT OF SELECT COMMITTEE ON COMMITTEES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 93–935) on the resolution (H. Res. 989) to provide for the printing of additional copies of a report of the Select Committee on Committees, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 989

Resolved, That there shall be printed for the use of the Select Committee on Committees of the House of Representatives one thousand three hundred and eighteen additional copies of the complete House report entitled "Committee Reform Amendments of 1974" (Ninety-third Congress, second session).

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. VANDER VEEN. Mr. Speaker, due to pressing business in the Fifth Congressional District of Michigan, I was unable to attend the Monday session of the House.

Had I been present I would have voted "yes" on H.R. 8747, smallpox vaccination.

"Yea" on H.R. 12109, neighborhood councils.

"Nay" to recommit H.R. 12832, Law Revision Commission.

"Yea" for passage of H.R. 12832, Law Revision Commission.

NORTH CAROLINA STATE UNIVERSITY—NCAA BASKETBALL CHAMPIONS

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

Mr. JONES of North Carolina. Mr. Speaker, I am sure there is not a State in the Union which does not have some outstanding fact or event of which they are justly proud, but today I want to call to the attention of the Members of the U.S. Congress that my alma mater, North Carolina State University located at Raleigh, N.C., is now the NCAA Basketball Champion, therefore, bringing a deep sense of pride and joy to the hearts of millions of North Carolinians as well as other sports fans of this Nation.

The team, in reaching this high honor, achieved a most phenomenal record. The year before this, they had an undefeated record, but due to a technicality could not advance to the NCAA playoffs, while during this current season they lost only one time and that, of course, was to the very outstanding Bruins of UCLA. This loss was vindicated last Saturday afternoon in the NCAA finals in a double overtime in a game which can only be described as one of the great athletic events of this or any other year; thus making a total 2-year record of 57 victories against only 1 loss.

Time does not permit me to pay the proper accolades to all who were responsible, but surely to all sports fans the names of David Thompson, Tom Burleson, and Monte Towe are most familiar. But, of course, it is obvious that no team is any stronger than the ability of the lowest ranking sub who is called upon in some cases to perform as heroically as those better known.

So, to Coach Norman Sloan, his staff, and the entire North Carolina State University basketball squad, I ask you to join with me in extending our congratulations and best wishes, and I am particularly proud to note this outstanding achievement, inasmuch as I am the only graduate of N.C. State University presently a Member of the U.S. Congress.

NORTH CAROLINANS PROUD OF NORTH CAROLINA STATE UNIVERSITY VICTORY

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

Mr. RUTH. Mr. Speaker, I would like to inform by distinguished friend, the gentleman from North Carolina, that one does not have to be an alumnus of that institution to be proud of North Carolina State University achieving the basketball championship. Being a graduate from the University of North Carolina I would like to say that I and the rest of the delegation from North Carolina are extremely proud of North Carolina State and I commend the gentleman for his statement.

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

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

Mr. THOMPSON of New Jersey. Mr. Speaker, as the only alumnus of Wake Forest University which is in the Atlantic Coast Conference, which is incidentally the greatest basketball conference of the United States beyond question, I would simply invite those who boo to send their ball teams down and play the seven or eight teams in that league and any of them will beat the ball team the gentleman is applauding.

I would like to congratulate North Carolina State. Wake Forest came within 2 points of beating them and did not. I congratulate them on the 2-year undefeated record in that conference, but warn them to watch Wake Forest next year.

Mr. RUTH. Mr. Speaker, I would like to assure my colleagues that Mr. THOMSON did attend Wake Forest University. I still have scars on my leg to show for it.

Mr. BOLAND. Mr. Speaker, as one who attended Appalachian State Teacher's College in North Carolina, I want to join my colleagues in congratulating North Carolina State.

Mr. FREY. Mr. Speaker, I would like to add my congratulations to the gentleman.

They also deserve congratulations for not being under suspension and being able to compete this year.

Mr. WARE. Mr. Speaker, will the gentleman yield further?

Mr. RUTH. I am happy to yield.

Mr. WARE. Mr. Speaker, it seems none of us in this body like to be called male chauvinists. I wonder if the gentleman would amend his resolution to include Immaculata College and the young ladies of that college who won the national championship for 3 consecutive years.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE CERTAIN PRIVILEGED REPORTS

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file certain reports on several privileged resolutions.

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

There was no objection.

CONFERENCE REPORT ON MINIMUM WAGE AND HOUR LAW

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

Mr. DENT. Mr. Speaker, I would like to advise the House that last evening the committee named to the conference on the minimum wage and hour law reached an agreement with the Senate, unanimously signed by both the House members of the conference and the Senate members of the conference. This morning in discussing this, I received a call from the State Labor Department and I was advised that they would like to have the House act on this legislation expeditiously, because they would like to have it in their hands before the first of April.

I am going to ask later on for unanimous consent to bring up the conference report. I believe my colleague from Minnesota will join me in a unanimous-consent request to bring up the minimum wage conference report on Thursday for a final vote.

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

Mr. DENT. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, the gentleman is correct.

PROPOSED BUDGET DOES NOT FIGHT INFLATION

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

Mr. ROUSSELOT. Mr. Speaker, the proposed budget for fiscal year 1975, which will operate at a deficit of $9.4 billion under the unified budget concept

and at a deficit of $17.9 billion not including the receipts from the trust funds, has something in it for everybody except the answer to fighting inflation.

Most economists agree that the continued trend of the Federal Government to increase spending for goods and services financed through heavy deficits, coupled with the Federal Reserve Board's creation of new money, is the primary inflationary pressure in our economy. Instead of working with a budget which calls for an estimated $29.7 billion increase in spending over last year, such as is proposed for fiscal year 1975, both the executive and legislative branches should be concentrating on ways to reduce Federal spending and thereby easing the burdens of inflation and high taxation on the citizens of our Nation. In a column which appeared in Newsweek, January 29, 1973, Dr. Milton Friedman, professor of economics at the University of Chicago, advises:

> Lower government spending is important primarily because we are not getting our money's worth for what the government spends. But it is important also because large deficits tend to raise interest rates, which induces people to hold less cash relative to their income and also puts pressure on the Fed to finance the deficits.

Article I, section 8, of our Constitution gives the Congress the power to pay the debts of the United States, and section 9 of this same article gives Congress the power to regulate the Federal Government's spending. We, as the elected representatives of the people, are being negligent in our constitutional responsibility by allowing the Federal Government to go along year after year spending more than it receives in revenues, never making provisions for repayment of the public debt.

I again urge this body to consider and support legislative alternatives such as I have proposed in H.R. 98 and House Joint Resolution 374, which would provide for a balanced budget and the systematic repayment of the existing national debt.

PERMISSION TO CONSIDER CONFERENCE REPORT ON S. 2747 ON THURSDAY, MARCH 28

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that it be in order for the House to consider the conference report on S. 2747, the Fair Labor Standards Amendments of 1974, on Thursday, March 28, since the report is unanimous.

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

There was no objection.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. 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. 111]

Addabbo	Heckler, Mass.	Reid
Alexander	Ichord	Rodino
Blatnik	Jones, Ala.	Roncallo, N.Y.
Carey, N.Y.	Kluczynski	Rooney, N.Y.
Chisholm	Macdonald	Slack
Clark	Madigan	Steiger, Wis.
Conyers	Mayne	Symington
Dingell	Mitchell, Md.	Teague
Erlenborn	Passman	Thone
Frelinghuysen	Patman	Van Deerlin
Hanrahan	Poage	Wampler
Hansen, Wash.	Railsback	Wright

The SPEAKER. On this rollcall 396 Members have recorded their presence by electronic device, a quorum.

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

PERSONAL EXPLANATION

Mr. SEIBERLING. Mr. Speaker, on March 21, on the vote on H.R. 12920, the Peace Corps authorization bill, I was recorded as voting "no" against that bill. I intended to vote "aye" and, Mr. Speaker, as far as I know I did vote "aye," and I would like the RECORD to reflect my statement to that effect.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, MARCH 29, 1974, TO FILE A REPORT ON H.R. 13163

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, Friday, March 29, 1974, to file a report on the bill H.R. 13163.

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

There was no objection.

HAIL TO THE CHAMPS

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

Mr. MIZELL. Mr. Speaker, it is a privilege to announce that last night North Carolina State became the National Collegiate Athletic Association's basketball champions. With its victory over Marquette University, North Carolina has won 28 straight victories.

A most important victory was last Saturday when State came from behind to beat UCLA. For everyone who saw this game, the lesson of teamwork, of perseverance, and how it is possible to come from behind and beat the odds was obvious to all.

Congratulations are in order to coach Norman Sloan and the new champions for their remarkable teamwork, their fighting spirit, and their well-deserved victory.

PERSONAL EXPLANATION

Mr. SARASIN. Mr. Speaker, at the time of the vote on H.R. 8747, on March 25, to repeal the smallpox vaccination requirement for students in the District of Columbia, I was delayed in an aircraft and was unable to cast my vote. Had I been present I would have voted "yea."

VETERANS DISABLED IN ARMED ROBBERIES ARE NOT ENTITLED TO VA DISABILITY PAYMENTS

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

Mr. TALCOTT. Mr. Speaker, the gentleman from California (Mr. WALDIE) earlier made reference to a meeting in Los Angeles between Mr. Donald Johnson, Administrator of the Veterans' Administration, and certain disabled Vietnam veterans in which hostility was shown on both sides.

I, too, regret any hostility.

But several points should be made to provide the true perspective.

No veteran is being denied his legal rights to disability payments. Mr. Johnson and every employee of the Veterans' Administration is committed to providing every benefit provided by law to every veteran.

I know that at least one of the veterans, a Mr. Michael Dennis Inglett, sustained his disability while he was committing an armed robbery of a store in Moss-Landing, a small town in the congressional district I represent.

We can sympathize with anyone who is disabled—particularly bona fide veterans.

And every bona fide veteran with a service-connected disability should be guaranteed the benefits provided by law. Mr. Johnson and the VA is responsible for carrying out the law.

The law, however, does not provide veterans' benefits for persons who are disabled during armed robberies.

Payments to such persons would deprive benefits to bona fide veterans with legitimate service-connected injuries.

I am confident if Mr. WALDIE were given the true facts that he would agree.

APPOINTMENT OF CONFEREES ON H.R. 7130, BUDGET AND IMPOUNDMENT CONTROL ACT OF 1973

Mr. BOLLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7130) to improve congressional control over budgetary outlay and receipt totals, to provide for a Legislative Budget Office, to establish a procedure providing congressional control over the impoundment of funds by the executive branch, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to

the request of the gentleman from Missouri? The Chair hears none, and appoints the following conferees: Messrs. BOLLING, SISK, YOUNG of Texas, LONG of Louisiana, MARTIN of Nebraska, LATTA, and DEL CLAWSON.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1974

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 69) to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes.

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

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 further consideration of the bill H.R. 69, with Mr. PRICE of Illinois in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, March 12, 1974, all time for general debate on the bill had expired.

Under the rule, no amendment shall be in order to title I of the substitute committee amendment printed in the reported bill except germane amendments which have been printed in the CONGRESSIONAL RECORD at least 2 calendar days prior to their being offered during the consideration of said substitute for amendment, and amendment offered by direction of the Committee on Education and Labor, and neither of said classes of amendments shall be subject to amendment.

Pursuant to the rule, the Clerk will now read by titles the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Elementary and Secondary Education Amendments of 1974".

TABLE OF CONTENTS

TITLE I—AMENDMENTS OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

EXTENSION OF TITLE I PROGRAMS

SEC. 101. 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. 102. 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 determined 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 regulations 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 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. 103. 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. 104. (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 nonfarm 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. 105. Section 103 of title I of 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 State in which the agency is located or (B) 120 per centum of such 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. 106. 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 Commissioner 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 agricultural 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 provision 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 of 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 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 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. 124. 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. 107. (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 are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families 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;".

(c) Section 141(a) of the Act is amended by striking out "and" after paragraph (12),

and by striking out paragraph (13), and inserting in lieu thereof the following:

"(13) that, where a school attendance area does not meet the requirement of paragraph (1)(A) of this subsection for a fiscal year, or in the case of a local educational agency electing to allocate funds under section 140, where such an area does not meet the requirement of that section, but did meet the appropriate requirement in either of the two preceding fiscal years, that school attendance area shall be considered to meet the applicable criterion for that fiscal year; and

"(14) that the local educational agency has established an advisory council for each school of such agency served by a program or project assisted under section 134(a)(2) which—

"(A) has as a majority of its members parents of the children to be served,

"(B) is composed of members selected by the parents in each school attendance area,

"(C) has been given responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and

"(D) is provided by such agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects."

(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. 108. 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 85 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. 109. (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 Commission 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. 110. (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-reference 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)."

ALLOCATION OF FUNDS BY A LOCAL EDUCATIONAL AGENCY WITHIN THE SCHOOL DISTRICT OF SUCH AGENCY

SEC. 111. Title I of the Act is amended by inserting after section 139 (as redesignated by section 110(h) of this Act) the following new section:

"ALLOCATION OF FUNDS WITHIN THE SCHOOL DISTRICT OF A LOCAL EDUCATIONAL AGENCY

"SEC. 140. For any fiscal year each local educational agency may elect, with the approval of any district parent advisory council

which may be required to be appointed under regulations promulgated by the Commissioner under section 425 of the General Education Provisions Act, to allocate funds received from payments under this title within the school district of the local educational agency on the basis of a method or combination of methods other than the method provided under section 131(a)(1)(A). Any method or combination of methods elected under the preceding sentence shall be designed to meet the special educational needs of educationally disadvantaged children in school attendance areas having concentrations of such children.".

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 Secretary 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.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title I be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

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

There was no objection.

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

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, I make a point of order. Under the rule the motion is not in order unless he has printed the motion in the RECORD.

The CHAIRMAN. The Chair overrules the point of order. The amendment offered by the gentleman from Kentucky was printed in the RECORD.

Mr. BAUMAN. Mr. Chairman, I submit to the Committee that the motion I heard was to strike out the requisite number of words. If the gentleman from Kentucky has not had that motion printed in the RECORD, he is not entitled to 5 minutes under the rule.

The CHAIRMAN. That amendment was printed in the RECORD.

Mr. BAUMAN. Mr. Chairman, how many times does he get to use it?

The CHAIRMAN. As many times as it is printed in the RECORD.

Mr. BAUMAN. I thank the Chairman.

Mr. PERKINS. Mr. Chairman, let me first state to the Committee that we have brought before the Chamber the best possible bill that can possibly be worked out. The Committee on Education and Labor has spent a year and a half trying to get rid of an unfair situation, an inequitable situation that arose out of the enactment in 1965 of legislation with a stationary floor above which AFDC children were counted. The basic cause of the problem that we are dealing with today is the imbalance in the title I formula which has resulted between the statistics used from the census and those used from the Program of Aid for Families with Department Children.

When we enacted the legislation in 1965, we only had 500,000 AFDC children. Today we have 3,600,000. Under the low-income factor of $2,000, we had 5.6 million children back in 1965 under the 1960 census. Today we have about 2,600,000. The trouble with so many of these amendments that will be offered today is they are going to ask this Chamber to approve a stationary floor above which AFDC children are counted so the AFDC statistics will continue to get out of balance again in the next few years just like it has in the past few years.

They are going to argue that we are going to eliminate all AFDC here. We have in this country today 280,000 children above the $4,250 low-income factor which we have established in the committee bill.

As the consumer price index moves up, this lower income factor will move up but it will not move up until the school year of 1976, and the gentleman from Indiana (Mr. BRADEMAS) will offer an amendment which carries out the intent of the committee in that regard.

But I am hopeful that we will not let ourselves fall into this same trap again. We have 730,000 children on AFDC today if the cost of living factor increases the floor to $4,500. There are 730,000 children today above that, but half the States have escalator clauses that continue to move up AFDC payments. So by next year there may be many more AFDC children above that floor.

What we are fighting for here today is this. This bill is still weighted in favor of the wealthier States but from a realistic viewpoint we know that we cannot wipe out all inequality and put everybody on a basis of equality because we know we cannot pass that bill. It is still weighted in favor of the wealthier States, but in spite of all that some people want the AFDC to still snowball as it did a few years ago and they want the floor to remain stationary. In our bill we move the floor up just as the AFDC moves up, and it is still weighted in favor of the wealthier States of the Nation.

We have a good bill and it is my hope the members of this committee will support this House bill.

Mr. Chairman, I would like to insert in the CONGRESSIONAL RECORD at this point a chart showing the distribution of funds under title I for fiscal 1974 and the distribution under H.R. 69. I would like to point out that this chart differs from chart No. 1 I inserted in the RECORD on March 13 in that the total for H.R. 69 allocation has been corrected to $1,866,-748,355.

State	Fiscal year 1974 allocation (A)	H.R. 69 formula allocation (B)	Increase or decrease (A–B)	Percent increase or decrease
Alabama	$36,498,672	$46,069,880	$9,571,208	26.2234
Alaska	4,599,584	4,584,737	−14,846	−.3228
Arizona	11,326,911	17,604,268	6,277,357	55.4199
Arkansas	23,394,192	27,097,231	3,703,039	15.8289
California	136,486,016	158,460,568	21,974,552	16.1002
Colorado	14,311,073	17,462,127	3,151,054	22.0183
Connecticut	16,660,632	19,545,836	2,885,204	17.3175
Delaware	3,689,165	5,606,532	1,917,367	51.9729
Florida	40,146,464	67,324,244	27,177,780	67.6966
Georgia	43,002,496	50,218,655	7,216,159	16.7808
Hawaii	4,552,617	5,843,309	1,290,692	28.3506
Idaho	4,063,449	4,951,430	887,981	21.8529
Illinois	85,305,776	92,887,706	7,581,930	8.8879
Indiana	22,535,584	27,623,346	5,087,762	22.5766
Iowa	15,830,087	17,177,747	1,347,660	8.5133
Kansas	11,762,936	14,142,563	2,379,600	20.2296
Kentucky	33,409,408	35,608,290	2,198,882	6.5816
Louisiana	34,756,000	57,972,394	23,216,394	66.7982
Maine	6,547,142	7,375,441	828,299	12.6513
Maryland	25,912,208	32,352,734	6,440,526	24.8552
Massachusetts	32,268,400	34,239,929	1,971,529	6.1098
Michigan	69,596,528	81,126,454	11,529,926	16.5668
Minnesota	22,761,440	28,670,350	5,908,910	25.9602
Mississippi	38,134,032	44,250,347	6,116,315	16.0390
Missouri	26,074,784	32,926,969	6,852,185	26.2790
Montana	4,355,160	5,863,672	1,508,512	34.6374
Nebraska	8,068,653	9,726,591	1,657,938	20.5479
Nevada	$1,548,527	$2,607,489	$1,058,962	68.3852
New Hampshire	2,881,740	3,526,094	644,354	22.3599
New Jersey	60,575,552	57,995,387	−2,580,164	−4.2594
New Mexico	9,083,931	14,736,279	5,652,348	62.2236
New York	235,856,520	206,586,717	−29,280,802	−12.4141
North Carolina	56,969,632	55,528,579	−1,441,052	−2.5295
North Dakota	5,393,937	5,699,719	305,782	5.6690
Ohio	53,476,816	59,181,545	5,704,729	10.6677
Oklahoma	18,889,360	21,833,286	2,943,926	15.5851
Oregon	12,441,113	17,221,871	4,780,758	38.4271
Pennsylvania	78,045,120	88,164,738	10,119,618	12.9664
Rhode Island	5,771,045	7,453,511	1,682,466	29.1536
South Carolina	32,812,752	35,985,007	3,172,255	9.6678
South Dakota	6,049,284	6,463,950	414,666	6.8548
Tennessee	33,561,968	42,090,442	8,528,474	25.4111
Texas	95,159,456	122,761,154	27,601,698	29.0057
Utah	5,394,049	6,325,710	931,661	17.2720
Vermont	3,054,045	3,892,729	838,684	27.4614
Virginia	34,657,008	41,576,422	−6,919,414	19.9654
Washington	19,257,392	23,742,190	4,484,798	23.2887
West Virginia	18,480,096	18,609,299	129,203	0.6992
Wisconsin	22,167,888	30,903,656	8,735,768	39.4073
Wyoming	1,800,767	2,783,793	983,026	54.5893
District of Columbia	12,639,227	11,468,080	−1,171,146	−9.2660
Puerto Rico	31,837,390	32,897,354	1,059,964	3.3293
Total	1,633,865,024	1,866,748,355	232,883,331	

Source: Library of Congress.

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

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

Mr. SEIBERLING. Mr. Chairman, I would like to ask the distinguished Chairman if he would please clarify for the record the committee's intention with respect to the definition in section 110 of H.R. 69 of "excess costs" and how that definition affects the comparability requirement under title I of ESEA.

As I read the language in section 110 (i) (17), the bill would prohibit local school districts from considering State and local expenditures on programs for the handicapped, bilingual education and compensatory education in determining whether they are meeting the comparability requirement of title I that school districts spend at least as much State and local money in title I schools as in noneligible schools.

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

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. PERKINS was allowed to proceed for 4 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I will continue with my question.

However, the language in the committee report (No. 93–805, page 18) indicates that the rigid language in the bill does not represent the intent of the committee. The report states:

The same amendment by defining "excess cost" to exclude State and local spending on programs for the handicapped, bilingual education programs, and compensatory education programs also affects the comparability requirement under Title I. *Local school districts—at their option—may thereby delete expenditures for these purposes from their computations in determining whether their State and local expenditures on education are at least the same in Title I schools as in non-eligible schools.* The purpose of this amendment is to encourage State and local spending on programs for the handicapped, for the educationally deprived and for those with limited English-speaking ability, and not to deny them title I funds if they are using non-Federal funds for those purposes.

The superintendent of public instruction for the State of Ohio, Martin Essex, and officials of the Akron public school system have both expressed deep concern to me about the ability of local school districts to meet comparability if they are not allowed to supply State compensatory education funds. The State of Ohio has supplemented the title I program with a State disadvantaged pupil program which this year is funded at $35 million. The funds are used for supplementary services not covered by title I, and under State law, all these funds must be spent in title I schools. It is an attempt by the State the maximize the impact of Federal title I dollars.

These State funds are critical to local school districts in bringing title I schools up to comparability so that they will be eligible for title I funds. If these funds are excluded from the comparability test, it would minimize the ability of local school districts to bring State and Federal resources together to have the greatest impact on educationally disadvantaged children.

I agree with the language in the report on H.R. 69 that local school districts should have the option of applying these State funds in computing comparability. And I would appreciate it if the chairman would clarify the committee's intent with respect to this issue.

Mr. PERKINS. Mr. Chairman, let me state to my distinguished colleague, the gentleman from Ohio, that I agree with the gentleman's interpretation of the comparability section. That is exactly the way the committee intended it to be.

Mr. Chairman, let me state, it would be my hope that the Committee would vote down all these amendments. We have an excellent bill, a bill that does not discriminate against any State in this Union. It is fair, it is equitable. There will be some committee amendments that we hope the Members support, very few, but these other amendments would put back in this bill the stationary floor and just let the 50 States go in 50 directions again, and even within the same State different counties administer their AFDC programs in different ways and count children without any uniformity. If we had uniform standards governing AFDC, it would be horse of a different color; but here the States go in every direction.

The Bureau of Standards, the Department of Health, Education, and Welfare, have all testified that it is unfair and it is no gage of poverty by AFDC standards.

Mr. BELL. Mr. Chairman, I rise in opposition to the amendment which will be offered by the gentleman from Michigan (Mr. O'HARA).

The title I amendment which he offers sounds reasonable enough until you examine the figures and find out where the money goes within a State.

In my own State of California, Los Angeles County, which has the greatest number of educationally disadvantaged children in the State, would receive $4 million less under O'Hara than under the formula contained in H.R. 69.

Moving one step closer to the problem we find out, when we look at the Los Angeles County figures, that Los Angeles City schools would receive almost $7 million less under O'Hara than under H.R. 69.

That is $5½ million less than under current law.

How will the Los Angeles City schools ever take care of the needs of their educationally deprived children with $5½ million less than they are now getting?

Another figure is so out of line with the intent of the law that it bears special mention.

Since the O'Hara formula distributes two-thirds of title I funds, on the basis of school age population alone without any regard to educational or economic need, some of the Nation's wealthiest districts will receive huge increases.

My research indicates that the Beverly Hills, Calif., school district can expect to receive over $112,000, under the O'Hara title I formula.

Now I know, the Beverly Hills area pretty well, and I can tell you that there are very few kids in that whole school system that need help on the same scale as about 100,000 kids in the Los Angeles City schools.

I find it simply incredible to think that Beverly Hills will end up with a gain of nearly $100,000 while Los Angeles City is losing $7 million.

The O'Hara amendment should be called the "Reverse Robin Hood" amendment—it robs from the poor to give to the rich.

I might ask anybody if they can tell me how Beverly Hills will use its $112,000; particularly since the law requires that the funds be spent only on the excess cost of educating children who are educationally deprived.

I personally suspect that in the case of Beverly Hills it will simply mean that the funds will be unwisely spent, that the Federal money will in effect be used to reduce or maintain a tax rate that is already about the lowest in the Nation, or the funds will not be spent at all and will revert to the Treasury at the same time that Los Angeles City is trying to scrape together enough dollars to educate one-third of the title I eligible kids in their schools.

AMENDMENT OFFERED BY MR. PEYSER TO THE COMMITTEE SUBSTITUTE

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

The Clerk read as follows:

Amendment offered by Mr. PEYSER to the committee substitute: Page 28, beginning with line 10, strike out everything down through line 11, page 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of Title I of the Act is amended to read as follows:

SEC. 103. (a)(1)(A) There is hereby authorized to be appropriated for each fiscal year for the purpose of this paragraph an amount equal to not more than 1 (one) 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 Commissioner shall allot 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 such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(ii) the amount necessary to make payments pursuant to subparagraph (B); and

(iii) the amount necessary to make payments pursuant to subparagraph (C). . . .

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed, for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clauses (ii) in the third sentence of subparagraph (A) for any fiscal year shall be 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, as determined pursuant to criteria established by the Commissioner. 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 part. Such agreement shall contain (1) 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 (2) provision for carrying out the applicable provisions of section 131(a) and 133(a)(3).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State or, if greater, in the United States multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) 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, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum 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 maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, 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. Notwithstanding the foregoing provisions of this paragraph, 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 the first sentence of this paragraph, 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 regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditure for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(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 maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 50 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 the average per pupil expenditure in the United States.

(5) 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.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in

paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 50 per centum and the "low-income factor" shall be $4,000 for each fiscal year of this Act, except that no county shall receive less than 100% of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor 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 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.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "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 earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6)(A) 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 sources 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 driving such preceding year.

Renumber all the following sections accordingly, and on page 48, line 10, strike "85" and insert in lieu thereof "100".

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

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

There was no objection.

Mr. PEYSER. Mr. Chairman and my colleagues, I have been working the last 10 days examining and trying to come up with a formula that was going to answer, as much as possible, the needs of everybody in this country; all of the schoolchildren, and at the same time not hurt any of the schoolchildren. I think we have come up with such a formula.

We have analyzed in the last 10 days 17 formulas, trying to take every combination possible to come out with something that we felt was fair. Very briefly, our formula does one thing that Chairman PERKINS was very interested in doing for the last several years: It raises the poverty level figure from $2,000 to $4,000.

Now, this formula also says that 100 percent of the AFDC children will be counted, and it also guarantees a 100-percent hold harmless, nobody, no county, no LEA, is going to lose any money under this bill.

Mr. Chairman, many Members have indicated that this sounds like it could be a New York bill. But, I am trying to point out that this is not a New York bill. In Tennessee, for instance, there are 31 counties that lose money.

Mr. BINGHAM. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-five Members are present, not a quorum. The call will be taken by electronic device.

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

[Roll No. 112]

Arends	Hébert	Roncallo, N.Y.
Blatnik	Kluczynski	Rooney, N.Y.
Breckinridge	Leggett	St Germain
Clark	Lujan	Staggers
Conyers	Luken	Stanton, James V.
Corman	Macdonald	Steiger, Wis.
Devine	Martin, Nebr.	Teague
Diggs	Mathis, Ga.	Van Deerlin
Dingell	Minshall, Ohio	Ware
Drinan	Mitchell, Md.	Wilson, Charles H., Calif.
Frelinghuysen	Murphy, N.Y.	Wright
Griffiths	Passman	Young, Ill.
Hanna	Patman	
Hanrahan	Podell	
Hansen, Wash.	Preyer	
Hastings	Rees	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, 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. 69, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 388 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of order of no quorum was made, the gentleman from New York had 3 minutes remaining.

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

Mr. PEYSER. Mr. Chairman, we were in the process of discussing what this formula, the Perkins formula, really does to the children in this country.

Mr. Chairman, it has been stated that this is a New York bill. I want the Members to know that while New York is fighting for a bill, it is not fighting for New York or anything resembling New York alone; it is fighting for children all over this country.

I should like to give an example here. We have 31 counties in Tennessee who lose money under this particular formula of the chairman's under H.R. 69. We have 30 counties in Texas that lose money; 41 counties in Georgia that lose money; 5 counties in Alabama, 32 in Iowa, 15 in Kansas, 7 in Michigan, 14 in Missouri, and so forth. A total of 401 counties in our country lose money under H.R. 69.

Under my amendment no counties will lose money. There is a 100-percent hold-harmless clause which protects every LEA. We have heard the argument expressed that the aim of this program in the committee bill is to get the money where the children are.

I should like to give the Members a few statistics which, if they would listen, I think they might find interesting. These are some figures that were given to me this morning by the Census Bureau. I have just taken a few samples here. Obviously, I neither want to bore the Members with too many figures, nor do I have time to go through them all, but let us take, to start with, the State of Kentucky.

In the State of Kentucky, in Nelson County in 1960 the total population was 22,168. In 1970 the population of Nelson County was 23,477. We have an increase of a little over 2,000 people. The increase in H.R. 69 for Nelson County under title I is 119 percent. That does not sound as though it is very fair to me.

Trimble County in 1960 had a population of 5,102; in 1970 it had 5,349, an increase of 247 in total population. Trimble County gets 180 percent more money under title I in the present bill than they received in the last year, 1974.

In Oldham County, Ky., they had a population in 1960 of 13,388, and in 1970 a population of 14,687, a growth of 1,299 people, but this increases the amount 152 percent.

Let me take a county in Michigan, Keweenaw County, which had a popula-

tion in 1960 of 2,400 and in 1970 a population of 2,200. This is a very small area, but that county receives 290 percent more money under this bill as it is now set up than it would have in 1974.

In Indiana, in Ripley County they had 20,000 and it goes to 21,000, a growth of 1,000 people, but it increases 121 percent.

Let me take some cities for a minute. In 1960 the city of Chicago had 3,550,000, and in 1970 it had 3,369,000, or a drop of 181,000 total population, but they drop 15 percent in this bill. This is a major loss.

In Boston they had a population in that city in 1960 of 697,000 and they dropped to 641,000, a drop of 56,000, but it loses 15 percent. And it goes on in this manner down the line.

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

Mr. PEYSER. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me first ask the gentleman if New York State has had a decline in population between 1960 and 1970, and if it did not go from 9.4 percent of the Nation's population down to 9 percent, and even with that decline in population, if the gentleman's formula does not up the amount of money that New York will receive over what it receives under H.R. 69 by approximately $35 million? Am I correct in that statement?

Mr. PEYSER. The gentleman is correct with one exception, that one of the major parts of the money that New York under the formula receives, as the gentleman knows, is in section (b) and section (c) of this bill that are no longer applicable, and if we take (b) and (c) money, New York is out a great deal more.

Mr. PERKINS. But let me ask one further question. I am sure the gentleman does not want to see the recurrence of what occurred with AFDC by placing a stationary floor here of $4,000, just as we placed a stationary floor in 1965 of $2,000. Unless we do something about this stationary floor, AFDC is going to overwhelm again the census count. Furthermore, let me ask the gentleman if the gentleman does not have built into his formula this imbalance from the present law by including a 100-percent hold harmless to 1974. In 1974, the $2,000 low-income factor plus AFDC, which amounted to about 60 percent of the children resulted in an enormously inequitable distribution. Is that inequity in this formula?

Mr. PEYSER. Mr. Chairman, I say the inequity would be there if we did not have the 100-percent hold harmless which does protect every other area.

I have only a few minutes left and I would like to yield to the gentleman from Michigan (Mr. FORD).

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

I rise in support of the amendment offered by the gentleman.

Mr. Chairman, it was not my wish that we turn this bill into a poverty bill, but we have gone a long way toward doing that, and I find it absolutely ludicrous, having done so, to come to this floor and advocate using children from low-income families and concentrations of those children as a target for these funds and then suggest children living on welfare in this country are not poor. The committee formula does some interesting things. I have heard on this floor many times criticism of the impact aid formula because some so-called wealthy school districts receive considerable amounts of funds, while other districts receive much less.

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

(On request of Mr. FORD, and by unanimous consent, Mr. PEYSER was allowed to proceed for 2 additional minutes.)

Mr. FORD. Mr. Chairman, let us just make a few random observations on how the committee bill now before us proposes to distribute funds. We have heard Montgomery County in Maryland referred to as to wealthiest county in the United States on a per capita basis. Under the so-called poverty formula of the committee bill, we increase the allocation for Montgomery County 44 percent while we decrease funds for the District of Columbia 12 percent.

According to Education Daily, which has analyzed the committee formula, we would also be decreasing funds for Los Angeles by 2 percent and increasing funds for a rural California county by 238 percent.

In Illinois we would be increasing funds by 150 percent for a rural county while Cook County's share would be increased by only 8 percent.

In my own State of Michigan, we would provide Wayne County with a modest 12-percent increase while sparsely populated Keweenaw County would get a 290-percent increase.

In Pennsylvania, Philadelphia gets an 8-percent increase while rural Elk County will receive a 175-percent boost.

Now, I do not believe that kind of inconsistency can be peddled here as an attempt to use the correlation between low income and educational need as a basis for the distribution of these funds.

For that reason, I support the gentleman from New York.

One final observation. We cannot expect that we are going to have the American people support the kind of expenditures we should have in the next 10 years for Federal aid to education if we are going to cut out any State, whether it is New York, California, Michigan, Kentucky, or any other one.

We may be doing a lot for a few States by this formula right now, but those States are going to be hard pressed to find support for the appropriations for this legislation in the future if they deal as unfairly with some of the States, and particularly the big cities, as this legislation does.

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

Mr. PEYSER. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, I rise in support of the amendment of the gentleman. I come from the State of Minnesota. I believe we have a national responsibility with respect to legislating for schoolchildren.

I support the arguments as stated by the gentleman from Michigan, as well as the gentleman from New York.

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

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

Mr. MOAKLEY. Mr. Chairman, I rise in support of the amendment of the gentleman from New York (Mr. PEYSER).

According to what we are told by the Education and Labor Committee, we are here today to correct an inequity which exists in the present formula for the distribution of title I funds. We are here to enact a more just formula. But in fact what we will do if we pass H.R. 69 as it is now written is replace one inequity with another.

If we pass H.R. 69 as it is written, it will be impossible for our cities to continue to offer many programs now funded by title I allocations. We would be taking educational opportunities away from the children in our cities and redistributing them. This, it seems to me, is a great injustice to these children, and as great an inequity as the one which we set out to correct.

Rather than moving from one inequitable formula to another, we should legislate a smooth transition. If cities should receive less than they do now, let them remain at the same level they are now at while other localities receive larger allocations over the next few years. Let increases in title I appropriations go toward making the system more equitable. By passing the Peyser amendment, we will make it possible for this transition to take place.

If we pass H.R. 69 as it is now written, the situation for our cities is likely to get worse rather than better. The Orshansky index will go up, and there is no guarantee that it will not be going up in relation to this formula as well. If the index goes up, AFDC will be given less emphasis than it now is, and this will mean even a greater loss for our cities.

The real problem is that there is not enough money to go around for education. This is the problem which we must deal with. It would be far more pleasant to rise in support of a bill which appropriates enough funds for everyone. We must reset our national priorities so that there is enough money to go around for education. We should not have to compromise the education of any of our children.

Mr. Chairman, the city of Boston will lose nearly $500,000 as a result of the formula in H.R. 69. According to representatives from the Boston School Department, this would have a catastrophic effect on title I programs in Boston schools.

In addition to losing 5 percent of its fiscal year 1974 allocation, Boston will not receive an increase during fiscal year 75. In the past, this increase has come to nearly 8 percent, thus covering rising costs due to inflation. This brings the

total loss for the city of Boston up to 15 percent of the fiscal year 74 allocation, nearly $1 million.

Under the Peyser amendment, Boston would remain at the level of the fiscal year 74 allocation. This still means a loss of about 8 percent, but this loss could be compensated for without it being necessary to cutback title I programs.

In addition to helping cities like Boston and New York, this amendment would help dozens of other counties, many in rural areas. Every county will receive at least as much as it received in fiscal year 1974, thus making it unnecessary to cut off any title I programs.

This amendment is also consistent with the committee's belief that money needs to be redistributed. Dozens of other counties which receive more title I money under H.R. 69, will still receive additional money as a result of the Peyser amendment.

I urge you to vote for this amendment. It is a fair way to deal with the complicated problems this bill raises.

There are other problems which we will need to consider before this bill is passed. Foremost among these is the issue of forced busing. I would like to bring some points about this issue to your attention at this time.

Mr. Chairman, if someone wanted to put a highway, a high rise, or even a jack-in-the-box in your neighborhood, your State or local government would surely grant you and your neighbors a say in the matter.

And, if a majority of your neighbors objected to such a project, that project would be abandoned.

Such is the democratic tradition.

Mr. Chairman, because of a law passed by Congress, building developers must now draw up an environmental impact statement before being allowed to lay the first brick of a construction project.

This environmental impact statement must show that no significant harm to the physical landscape or ecology of the neighborhood involved would result from construction of the proposed buildings. Sometimes, hundreds of thousands of dollars are spent on these environmental impact statements. And all this before the first brick may be laid.

Why then is the question of the location of our children's education handled differently?

Why then do we not take the same rational, careful and sensitive approach when it comes to "people projects"?

Why do those who want to implement plans that involve people not have to first prepare a social impact statement? Why do they not have to offer social impact statements that show that their "people project" will not harm the human landscape and ecology of the neighborhood involved?

Why, Mr. Chairman, do we seem to place a greater value on those things created by man than we do on those things created by God?

Mr. Chairman, this week the House of Representatives has another opportunity to legislate an end to forced busing in America. We must not fail. And, for a reason I believe deserves the support of every Congressman in this Chamber.

Attempting to achieve desegregation through forced busing will lead only to even greater and more permanent resegregation, not the meaningful, integrated, and equal educational opportunity we seek for our children.

In my own city of Boston, implementation of forced busing could lead counterproductivity to an 80 percent nonwhite public school system by 1984.

In the past 8 years alone, Boston's nonwhite public school population rose from 23 to percent to 38.7 percent. In the United States against Indianapolis, an August 1971 desegregation case, the court pointed out that when the percentage of black pupils in a given school approaches 40, the white exodus becomes accelerated and irreversible.

When the Federal judge made this finding, Indianapolis' public schools were only eight-tenths of a percentage point more filled with black pupils than are Boston's right now. And that is without court-ordered busing.

In San Francisco, after court-ordered busing, there was a 13-percent drop in white student population in 1 year. Interestingly, probusing advocates had argued that there would be only a 3-percent drop.

In Norfolk, Va., court-imposed busing brought a drop of 20 percent.

In Pasadena, Calif., there was a 2-year drop of 22 percent.

Ironically enough, if, as it seems probable, it is the somewhat better off and more mobile who leave the public school system when busing is imposed, the already virtually negligible effect on the achievement of black children will be even further reduced.

The danger of resegregation is real. Last year, both the Federal district and appeals courts hearing the judges admitted freely that the Detroit plan—such as is now proposed for Boston—would lead to a single, segregated nonwhite Detroit school system in a State which is 87 percent white and 13 percent black.

Mr. Chairman, recently the voters of Durham, N.H., voted to keep out the proposed Onassis oil refinery. Because of the energy crisis, the Durham decision affected every New Englander. But the proposed refinery would have affected the people of Durham most of all.

So the people of Durham made their decision, and the rest of us, whether we agree or disagree with the result, must accept that decision and adapt accordingly. That is the democratic way.

Mr. Chairman, I think the people of Boston should have the same rights as the people of Durham.

The people of Boston do not want forced busing. That is their feeling. And, if they are given the chance to register that feeling through the political process, that will be their decision.

And the rest of the country, whether they agree or disagree with the people of Boston, should respect their right to decide upon a matter that affects them most directly.

To those who favor forced busing, I ask you to reconsider where your action would lead. I ask that you recognize that desegregation through forced busing will lead to greater and more permanent resegregation. Obviously, this would be counterproductive.

To those who intend to join me next week in attempting again to legislate an end to forced busing, I urge you to stand firm in your belief that every man and woman in America has at least the same right to be heard over the location of his child's education as they do to be heard over the location of a proposed hamburger stand.

Mr. PEYSER. Mr. Chairman, in closing, I hope the Members will consider this amendment in fairness to all the children, recognizing that nobody loses under this amendment.

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

(On request of Mr. KEMP, and by unanimous consent, Mr. PEYSER was allowed to proceed for 1 additional minute.)

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

Mr. KEMP. Mr. Chairman, I rise in support of the amendment and I appreciate the leadership of the gentleman who has offered the amendment.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

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

Mr. THOMPSON of New Jersey. Mr. Chairman, I would like to say we have all been through the agonies of these formulas; but I must say that although the amendment of the gentleman is imperfect, it is the best we can do. I thank him for the amendment and I intend to support him.

Mr. CAREY of New York. Mr. Chairman, will the gentleman yield?

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

Mr. CAREY of New York. Mr. Chairman, I thank my colleague for yielding. I applaud and endorse the well-organized effort he is making in stating in explicit terms exactly what is being done here and giving the House a chance to see in the committee what is going on.

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

Mr. CAREY of New York. Mr. Chairman, I ask unanimous consent that the gentleman have 5 additional minutes.

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

Mr. GROSS. Mr. Chairman, I object to 5 minutes.

The CHAIRMAN. Objection is heard.

Mr. CAREY of New York. Mr. Chairman, I ask for 4 minutes.

Mr. GROSS. Mr. Chairman, I object to 4 minutes.

The CHAIRMAN. Objection is heard.

Mr. CAREY of New York. Mr. Chairman, I ask for 3 minutes.

Mr. GROSS. Mr. Chairman, reserving the right to object, the gentleman from New York (Mr. PEYSER) has already had four or five extensions of time. If the

gentleman needs another minute, all right.

Mr. CAREY of New York. Mr. Chairman, if the gentleman will yield to me on his reservation, this Member who helped write this formula 9 years ago would like 3 minutes to say what has been going on for 9 years and what is going on today. If the gentleman will think of the children, will he give me 3 minutes?

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

Mr. GROSS. I will say to the gentleman from New York that those who voted for this kind of rule ought to live with it.

Mr. CAREY of New York. I did not vote for the rule and I ask for 3 minutes.

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

There was no objection.

Mr. CAREY of New York. Mr. Chairman, I thank my colleague from Iowa for being so generous.

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

Mr. CAREY of New York. Mr. Chairman, to resume what I was saying, I want it part of the record that we make here today that at the urging and instance of the late President Lyndon Johnson, as a member of this committee under the previous chairman, we sat in the White House for many hours with the then Commissioner of Education, the Secretary of Health, Education and Welfare, and the late President gave us a clear-cut direction to put this money where the poor children would have an opportunity to overcome their disadvantage. That is what the formula did 9 years ago and I wrote that formula.

We put the AFDC children in there because there is no better official index of children in poverty than AFDC.

If the Members think it is easy to become eligible as an AFDC child, they should try being born as one and compare their poverty with poverty anywhere else. It is the index that we use as eligibility for Federal funds. What is wrong with it as an index for access to education money?

Further, I do not like to be asking for a heart throb vote here today. I would like for the Members to vote with their heads. But, think of this, and I want to make this part of the record: The last time I saw Lyndon Baines Johnson alive, it was at the services for the late majority leader, Hale Boggs. He said to me, and I repeat it to this committee now:

> In whatever you do, consider that the Elementary and Secondary Education Act is my legacy to the children of this country. It is the landmark that I hope will always be my memorial.

If you destroy this formula today, if you substitute a general amendment formula, if you take the money out of the poverty areas of New York City and every other central part of the area of this country, then we are voting to liquidate the legacy of Lyndon Johnson. The failure to pass a hold-harmless provision means that with the incursion of inflation the education of thousands and thousands children will suffer. And it will be those children who need the education the most who will suffer the most.

A vote for the Peyser amendment will preserve the memory of a man who cared about the poor children of the United States.

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

Mr. PEYSER. Mr. Chairman, I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York, Mr. PEYSER.

Mr. Chairman, there is a strange thing happening in the United States; when we discuss the education of children; when we discuss general revenue sharing; when we discuss special revenue sharing, all described and called the concept of the new federalism. What it says is that the available Federal money is spread throughout the country regardless of where the real needs are.

The real needs of this country basically in education are localized in our cities, in our inner cities, where we need more money for the poor children who exist in these cities, and we should not allow the moneys to be evenly dispersed throughout the United States.

Mr. Chairman, I think the gentleman's amendment accomplishes this job.

PARLIAMENTARY INQUIRY

Mr. WYDLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WYDLER. Mr. Chairman, under the special rule that has been adopted for the consideration of this bill, is it in order for a Member to obtain additional time to speak on this amendment?

The CHAIRMAN (Mr. PRICE of Illinois). Only by unanimous-consent request.

Mr. WYDLER. Even granted unanimous consent, it is in order under the provisions of the rule?

The CHAIRMAN. By unanimous-consent request, it is.

Mr. WYDLER. I thank the Chairman.

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

Mr. Chairman, we ought to take a look at what happened to this legislation from 1966 until the present time. In 1966, when this program got started, New York received 9.4 percent of the money. Because of the formula drafted, as the gentleman from New York indicated, it certainly was beneficial to New York, because 15 percent of the national amount of money went to New York this last year. It increased from 9 to 15 percent over the life of the bill.

Now, are we abusive to New York in H.R. 69? No. We only cut New York back to 11 percent. What percentage of the poor children do they have in this country? It is 6.3 percent of the poor children; 6.3 percent, and we are letting them have 11 percent of the money under the committee bill.

Now, we should not say that the wealthier States are not getting enough money under the committee bill. They are doing better than the poorer States. That is the way it is all up and down the line. Let us look at California. California has as many poor children as New York. One thing about California, however, is that they have a number of people who, for some reason or other, do not want to go on AFDC. I think they are too proud, and that ought to be a credit to them and California should not lose money because of it.

What does the Peyser amendment propose to do for California with this many poor kids?

They are going to cut California down to $144 million and let New York have $264 million. Now, why should there be $120 million more in New York for the same number of children?

That I cannot understand. It costs money to help educationally disadvantaged kids in California.

Another thing I cannot understand is how Pennsylvania through these years stood quietly by and watched New York get about $100 per pupil more than Pennsylvania did right across the line. I cannot understand it.

But now we are just making a step toward correcting an inequity. Inequities are still going to be in here, but, as I said, the committee formula is the least unfair.

There is no way possible to bring this up to a fair formula now, because there are people who are dependent upon what they received before.

Mr. Chairman, what does the Peyser amendment do? It says that every local educational agency shall be guaranteed 100 percent of what it received last year. That means we do not get away from the 1960 census information.

There has been a dramatic change in where the poor people live in the country. The gentleman from Kentucky, as I pointed out in general debate, loses money in a number of his counties and in his congressional district under the committee formula. He is not going to stand up here and advocate 100 percent hold harmless. There are other counties in other districts that will lose money, too; they are not going to advocate 100 percent hold harmless.

Why? Because this bill is for children, not for school districts. We are not going to enact legislation just for the teachers and the administrators of every school district in the country; we are trying to provide a program for every disadvantaged kid in the country.

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

Mr. QUIE. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I want to commend the gentleman from Minnesota for what he has said, and I want to go on and point out that although the gentleman from New York has suggested that this is not an amendment just to take care of New York, still,

under his amendment, New York State would gain substantially and 41 States would lose local State entitlements. Here are those States. I hope Members will listen to them.

Under the amendment offered by the gentleman from New York (Mr. PEYSER), the following States would lose money:

Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

Mr. Chairman, not only do States lose money under this amendment but many cities do, too. Here are the cities that will lose under the amendment offered by the gentleman from New York (Mr. PEYSER), cities that also have a responsibility of providing education for poor children:

Chicago, Los Angeles, Houston, Baltimore, Dallas, Indianapolis, Milwaukee, San Francisco, San Antonio, San Diego, St. Louis, Memphis, New Orleans, Phoenix, Columbus, Jacksonville, Pittsburgh, and Denver.

As the gentleman from Minnesota has pointed out, when he referred to what happened back in 1966—and here, I think, is the legacy of Lyndon Johnson, which I also support, because I also sat on the subcommittee that helped draft the Elementary and Secondary Education Act.

New York in 1966 got 9.4 percent of all title I funds. Under the committee bill, H.R. 69, New York State will get 11.4 percent, and now the gentleman from New York (Mr. PEYSER) wants to give his State over 14 percent, a considerable jump from the days of Lyndon Johnson.

Mr. Chairman, I ask the Members, is that equity? Is that fairness?

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. QUIE) has expired.

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

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. QUIE. Mr. Chairman, let me finish my statement here before I yield to the gentlewoman from New York.

The amendment offered by the gentleman from New York (Mr. PEYSER) also drops the Orshansky definition of determining who is in poverty. By doing that, the gentleman by his amendment cuts out all of those children from families above four.

Under the 1970 census, if we would use the income of families of five, six, seven, and so forth, which was over $4,000 to as much as $6,100, they would not come under his formula. Under the Orshansky formula, they do.

It was under the Orshansky formula that we saw the fairness of determining poverty, because one knows that the size of the family is an indication of whether someone is in poverty or not. That is why we improved the formula by using the Orshansky formula.

Mr. Chairman, the Orshansky formula would be denied the right to operate under this program, under the amendment offered by the gentleman from New York (Mr. PEYSER).

Mr. MEEDS. Will the gentleman from Minnesota agree with me that perhaps the most mischievous thing about this is that it freezes in an inequitable distribution of funds which took place for the first time in 1974 and that it does not use a sliding figure, as the gentleman mentioned, the Orshansky formula or the Orshansky part of the formula, so that more than one child in a family can be counted?

Mr. QUIE. The gentleman is correct. We should be learning something from our 8 years of operating under this.

Ms. ABZUG. Will the gentleman further agree that the reason for the increase in the numbers in New York is that more people came on the AFDC rolls?

Mr. QUIE. Would the gentlewoman repeat that?

Ms. ABZUG. There were more children and more families on AFDC and that was the cause of the increase.

Mr. QUIE. There were more on AFDC and it increased more in some States. You saw the charts here a minute ago.

Ms. ABZUG. And that is why we have title I, and that is what it was intended to reach—those families and those children. Simply because they are on AFDC in New York does not mean they are not disadvantaged children.

Mr. QUIE. I will say at that point the fact that they are on AFDC does not make them educationally disadvantaged. The average child or average family stays on AFDC for 1 month and they do not become educationally disadvantaged when they go on it and cease to become educationally disadvantaged when they drop off of it. If the average is 18 months, it means a host of them are off for more than that period of time.

Ms. ABZUG. Will the gentleman agree further that there has been an increase in funds for New York, because of the numbers of children on AFDC, who are the poor and disadvantaged children, and no amount of discussion that we may have will change that?

I want to make one other point and statement. Federal moneys account for only 5.4 percent of the total expenditures made in New York for elementary and secondary education. We put a tremendous amount of money into the effort to educate our own children.

While the committee formula seeks to recognize the poverty which exists throughout the country, it fails to recognize that there has been no decrease in urban poverty. Failing to recognize this prerequisite, the committee goes on to suggest that we New Yorkers pay too much for the education of our children. Although New York has 13 percent of the Nation's children in poverty, the committee suggests that New York deserves only 9 percent of the available funding. The burden that the committee bill places on New York is unfounded in light of the fact that New Yorkers pay 12 percent of the Federal tax burden. While the Federal Government pays 8 cents of the average State's education dollar, it pays only 4 cents of New York's education dollar.

It is a myth that New York has received a disproportionate share of title I money. Although we do receive a greater dollar per child grant than California, for example, due to our higher average per pupil expenditure, New York and California both receive only 19.8 percent of their average per pupil expenditure for title I children, while States such as Minnesota and Mississippi are getting 25 and 89 percent of their per pupil expenditures, respectively.

The committee bill seeks to mandate a ceiling of 120 percent of the national per pupil expenditure. This is a direct attempt to discourage New York's initiatives in upgrading programs for the economically deprived child. New York's per pupil expenditure is 150 percent greater than the national average. New Yorkers have agreed both in the State legislature and in their community's property tax to accept the responsibility for providing quality education for their children. There is no reason why New Yorkers should expect to get less than an equitable percentage of the Federal contribution for title I programs.

Local initiative as well as the fact that we have a large number of poor children creates a situation in New York which is very different from that in other States and also helps to explain why New York has received larger shares of title I funds.

Mr. QUIE. I will say to the gentlewoman the reason why there are more Federal funds in Mississippi is because their Congressmen and Senators were able to stay here longer, long enough to get better Federal impact aid.

Mr. O'HARA. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Michigan.

Mr. O'HARA. I thank the gentleman from Minnesota for yielding.

To be sure the gentleman from Minnesota understands the parliamentary situation, if the Peyser amendment is adopted, that would end any possibility of amending the formula. Is that correct?

Mr. QUIE. That is correct.

Mr. O'HARA. I wonder if the gentleman from Minnesota would mind my announcing that in the event I have an opportunity to do so, I will offer a formula amendment, about which I have written to all of the Members of the House, after the vote on the Peyser amendment.

Mr. QUIE. If that will encourage some people to vote against the Peyser amendment, I am glad the gentleman announced that.

Mr. BELL. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. BELL. I think we have to realize New York is in a different position than almost any other State in the Union. They have a tremendous amount of funds they are spending relative to the other States in retirement for their

teachers and for a low teacher per pupil ratio in their State. So they have a different situation. Other States under the Peyser amendment would be helping to pay for some of the costs of New York. Is that correct?

Mr. QUIE. That is correct.

Mr. ASHBROOK. Will the gentleman yield?

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

Mr. ASHBROOK. A lot of this brings to mind some of the gentleman from Minnesota's remarks over the last 10 years in debate in regard to many of these problems where what we were doing seemed adequate at that time. I think we have not done enough for the cost of education. When our friend from Indiana was reading off the names it almost sounded like an auctioneer. In a lot of ways Federal education has become almost a part of politics.

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

(By unanimous consent, Mr. QUIE was allowed to proceed for 3 additional minutes.)

Mr. QUIE. I yield further to the gentleman from Ohio.

Mr. ASHBROOK. Unfortunately, Senators will vote on the basis of how much money is going to their States, and they pay little attention to quality education. The situation has been stressed by the gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Minnesota (Mr. QUIE) with regard to what is in the formula and without too much regard to the quality of education. I congratulate the gentleman from Minnesota for doing the best he can in a difficult situation and working out a formula and still keeping his eye and the committee's eye on quality education.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

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

Mr. BURLISON of Missouri. Mr. Chairman, I rise in opposition to the pending amendment and urge defeat of all similar amendments designed to tamper with the new formula for title I ESEA payments to our State education agencies.

I would like to commend the members of the Education and Labor Committee for the diligence with which they pursued this difficult task in writing the new formula. The old formula, as the committee has correctly concluded, simply has become inequitable. I have noted in the committee report that the State of New York is eligible to receive $772 per title I child under the old formula, while California is only permitted $465 per child. Thus, under the old formula, California receives only about half as much in Federal title I assistance as New York despite the fact the two States have approximately the same number of title I children.

Mr. Chairman, I am pleased to see the committee estimates that $30.9 million should become available to my State of Missouri under the new formula. This figure represents an increase of more than 30 percent over fiscal year 1974 allocations. I have noticed that my 19 counties in southeast Missouri will receive $5.6 million under the new formula as opposed to $4.8 million under the old. I certainly realize that simply pouring more Federal dollars into education will not be a cure-all for our major educational problems. But I believe the basic programs authorized under this legislation have begun to pay dividends. Literally hundreds of State and local educators have testified before Chairman PERKINS' committee concerning the value of these programs.

The heart of this education bill is the title I formula. It is a new formula based on a more realistic targeting of educational need. The old formula depended on a definition of poverty that failed to consider family size or farm or nonfarm family residence. Under the new formula, the Orshansky poverty index will be used to determine the title I count. This poverty index is the official poverty standard used by the Federal Government. To correct the weighting of the formula in favor of States that inordinately increase their welfare rolls, only two-thirds of welfare children will be counted. In addition, by setting limits of 80 percent and 120 percent of the average national per pupil expenditure, the discriminatory situation that I have pointed to in regard to California and New York entitlements will be corrected.

The essence of the new formula is compromise. I applaud the 85-percent "hold harmless" provision which insures that no local school district will recive less than 85 percent of its previous year's allocation. This sensible proviso will soften the impact of fund cutbacks on school districts adversely affected by the new formula.

I urge my colleagues to vote down these attempts to tinker with the committee's formula. The committee labored hard through numerous markup sessions. I do not believe it proper for us to mutilate the committee compromise. I believe the committee formula to be a fair and equitable agreement. I urge a "nay" vote on this amendment, and approval of the new committee formula.

Mr. QUIE. Mr. Chairman, I would like to recapitulate what the Peyser amendment proposes to do, and that is to put New York at that level that it reached at the end of the period that the Elementary and Secondary Education Act has been in operation. As I recalled it to the Members, they began at 5.4 percent of the money, and they moved up to 15 percent. The Peyser amendment will put them at 14.3 percent. Then as the years roll by they would be growing in the percentage of the money that went to New York. And that is what we are trying to stop.

Our committee began looking at the formula in the way the gentleman from New York did, that is how do we get the most for our State. We finally realized that by doing that we would never be able to come out here on the floor using that kind of formula, so, Mr. Chairman, we approached it from a different angle, and not with such parochial interests. And the committee started to educate itself, and they have tried to write the most favorable formula they possibly could write under the circumstances, and H.R. 69 is the outcome of that work.

So, Mr. Chairman, I urge the Members to vote down all of the amendments to the formula that have been offered, because anything that would be offered would be more unfair than anyone will find in the formula of H.R. 69. I will guarantee that because of the time that our committee worked on this, and the effort that they put into it, and the studies that were done. Therefore, if we are going to have a program that is going to reach the greatest number of educationally deprived children, and not school districts for what they received once before, even though the children may not be there. Our task is to provide compensatory education for the greatest number of educationally deprived children, and that is what H.R. 69 does.

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

Mr. QUIE. I yield to the gentleman from Kentucky.

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

(On request of Mr. PERKINS, and by unanimous consent, Mr. QUIE was allowed to proceed for 2 additional minutes.)

Mr. QUIE. Mr. Chairman, I thank the gentleman for this additional time, and I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I would like to ask a question of the gentleman from Minnesota, and that is if we treated everybody in this country equally, would we stop at the Orshansky definition of $4,250, without any AFDC on top of it? Am I correct in that statement?

Mr. QUIE. That would be the fairest way.

Mr. PERKINS. With the AFDC above $4,250 we have about 930,000 today in the wealthier States, when it jumps up to $4,250 in some year, we will have at least that number when you speak of 730,000 today above $4,250, and about half the States are agitating for AFDC to go up according to the cost-of-living increases. Am I correct in that statement?

Mr. QUIE. I understand that is a correct statement.

Mr. PERKINS. The built-in weakness of the amendment offered by the gentleman from New York (Mr. PEYSER) is the factor of $2,000, the low-income factor back in 1962 where in his State three children may be counted, while only one child was counted in Arkansas; am I correct in that?

Mr. QUIE. The gentleman is correct, and many States under H.R. 69 will not have AFDC children counted, because the figure is too low.

Mr. PERKINS. I want to say to my way of thinking, by and large, on the AFDC payments, some of my friends want those payments to snowball just as they did in 1965 and up to the present time, and I wonder if the gentleman agrees with this sentence in the report on page 11:

Some of those differences between the States are the following:

Payments vary from $52.94 monthly for

an average family in Mississippi to $284.76 in New York State;

About half the States provide aid if the father is in the home but unemployed but the other half of the States do not provide such aid;

Some States have no maximum on the value of the home of an applicant but other States have maximums ranging from $2,500 to $25,000.

Mr. QUIE. That is how I understand it.

Mr. PODELL. Mr. Chairman, in the course of debating the equity of various distributions of aid to the States under ESEA and the complexities of a multitude of competing formulas, we are in danger of ignoring the purpose of the bill and the effects it has on poor and disadvantaged children. Obviously, every State would like a bigger share of the pot, especially when it is such a small one relative to the existing needs. If this can be done by slashing New York's share, many will say so be it. The argument that the damage can be sufficiently contained by limiting New York's losses to 15 percent of last year's funding is incredible. That 15 percent translates to over $10 million for Brooklyn alone. Ongoing programs will be severely curtailed, hundreds of teachers will be laid off, and the slow progress which the children have achieved under these programs will be set back. The purpose of title I is supposed to be the equalization of educational opportunity for all and the advancement of students with serious learning problems.

The effect of the new formula, however, will not be to raise the educational level of the poor but to equalize the differences among various segments of the disadvantaged population, to drag down children now benefiting from federally financed programs in urban areas to the same level as disadvantaged children in other parts of the country. This is madness. If New York has been getting too large a share—and there are certainly just complaints against the old formula—then by all means new increases should first be allocated to other States, but present programs should not be destroyed.

The hold harmless provision will assure that Brooklyn is cut by a mere $10 million, but the rate of inflation for the last year was close to 9 percent. Therefore, simply to keep the programs operating at an equivalent level would cost an additional $6 million. The 15-percent cut must be understood within that context. Further, the expenditures under title I nationwide, according to the figures supplied by the committee, are to rise by 20 percent. New York, under the old formula, could have expected a comparable increase. The cut of 15 percent in effect becomes one of 28 percent. This can only be viewed as punitive.

Nor will the children of New York be the only ones to suffer. Most major cities will be likewise affected. This formula will force an increase in class size in poverty areas across the country. Can this possibly be a wise action? Have these programs been so successful that the time has come to cut back on them? Is it really true that the poor of our cities—have had too much of our resources and attention lavished on them? Of course not only the poor will be affected. The repercussions of this loss in funds will be felt through the entire city school system, in New York and elsewhere.

In 1973 for the first time in years the average reading scores in New York City public schools showed improvement. In 1972 32 percent of the city's pupils were reading at or above their grade level in 1973, this figure increased to 34 percent. Federal funds in recent years have helped to stem the steady decline in reading levels and perhaps we are turning the tide against functional illiteracy among our children. Is it now the position of Congress that 34 percent of the children, reading at or above their grade level is enough? God forbid 50 percent of our children should be able to read adequately.

There are three basic inequities in the committee formula. The old formula counted those children in families with income under $2,000 plus those children in families with higher incomes—who received Aid to Families With Dependent Children. As the vast majority of AFDC families are found in the highly urbanized, industrial States this formula was clearly weighted in their advantage. No one can possibly argue that $2,000 is a reasonable standard for judging poverty. However, in remedying this defect and substantially eliminating the use of AFDC in determining eligibility the committee will cause too great a shift in funding, an imbalance which the urban school districts will be unable to cope with.

The second defect is in an 85-percent hold harmless figure. As I pointed out this amount to millions of dollars cut from on going programs at a time of sharply escalating costs.

The third defect is the new limitation on the amount of a State's per pupil expenditure which is considered in determining its entitlement. The new ceiling of 120 percent of the national average expenditure penalizes those States which make the greatest efforts on their own to improve educational standards. It further discriminates against States which have unavoidably higher costs due to the difficult conditions under which their school systems must operate or simply as a result of a higher regional cost of living.

Every Member is rightly concerned with what this bill does for his or her district and all of us will pick and choose among the formulas by reading the printouts on the amount of money each district will receive. But any formula which will cause serious harm to millions of the poor people in this country should be rejected by every Congressman out of hand. I am afraid that the present version of H.R. 69 contains just such a formula.

In the fighting and confusion over funding I would like to reaffirm my strong belief both in the goals and the efficacy of this legislation. As I pointed out earlier test scores among poor achievers are finally showing signs of improvement. State funds will never be sufficient to deal with the educational problems of millions of those children who most need our help and I am grateful for Federal aid. Our duty should be to substantially increase that aid. Indeed I find the whole approach which the House has adopted today regrettable. Increased funding whether for rural children or urban children should be financed out of the fat in the military budget or the moneys now being expended to prop up the South Vietnamese Government. They should not come from the meager amounts allocated to the schoolchildren of New York.

Mr. BIAGGI. Mr. Chairman, I rise to speak in support of the amendment offered by my distinguished colleague from New York on behalf of the whole of the State of New York, and of the poor and needy everywhere.

The amendment goes in the right direction. At a time when education costs are increasing in our society, when the appropriation for H.R. 69 is not being increased, it is more important than ever to concentrate aid to education where it will do the most good. Time and again I have stated the basic fact underlying the question of how to distribute aid to disadvantaged children under title I: children from the poorest families have the highest incidence of educational disadvantage. There is no getting away from that fact, and there is no denying where these children reside: in the great, impoverished, besieged cities of America.

The formula under the Peyser amendment takes full account of these facts. The criteria is poverty and is a realistic one. We propose the poverty level in the formula be $4,000. No one can quarrel with that. Surely families who earn less than that are poor. We propose that all those families in the AFDC programs be counted for purposes of distributing the money. Surely it cannot be doubted that a family who has more than $4,000 to spend but is still in such need of assistance that they are legitimately on the welfare rolls is poor. We propose that the Federal share of State educational programs be 50 percent not 40 percent. Clearly at a time when most States are not spending enough, we ought to be at least this generous. And finally, we propose that every educational agency be held harmless at 1974 funding levels. It makes no sense when the cost of education is increasing to permit a decrease in educational funding for anyone, for any reason whatsoever.

This amendment makes the statement of purpose in H.R. 69 a reality. It addresses itself to the problem and it concentrates the money. It is far more than an effort to save New York City funds. It is an effort to remain true to the purposes of the law and help the neediest first. Do not defeat this amendment. Do not turn them away.

The CHAIRMAN. All time on the amendment has expired.

PARLIAMENTARY INQUIRY

Mr. PEYSER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PEYSER. Was there a time limit on the amendment when the gentleman asked to be recognized in support of the amendment?

The CHAIRMAN. That is correct. The gentleman from New York already had been recognized for 5 minutes with several extensions by unanimous consent.

Mr. PEYSER. I did not ask for it; the gentleman from Connecticut asked for it.

The CHAIRMAN. The gentleman could have asked for an extension on the time of the gentleman from Minnesota, but none on his own time, under the rule.

Mr. PEYSER. Mr. Chairman, I have another parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PEYSER. I am not aware of any time limit to speak on the amendments under the regular 5-minute rule.

The CHAIRMAN (Mr. PRICE of Illinois). The Chair might as well read the rule adopted in the House for the benefit of the membership so they will understand.

House Resolution 963 adopted in the House on March 12 provides in part:

> 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 on Education and Labor, and neither of said classes of amendments shall be subject to amendment.

Under the provisions of the rule, the proponent of the amendment is to be allowed 5 minutes, and a Member in opposition to the amendment, 5 minutes.

Mr. PEYSER. Mr. Chairman, is that in the rule?

The CHAIRMAN. That is all of the debate on the amendment.

Mr. PEYSER. That any amendment offered is limited to a 5-minute debate, and no other Members may speak, even members of the committee?

The CHAIRMAN. With respect to title I amendments, that is true.

Mr. PEYSER. I must admit, Mr. Chairman, when I heard this debated, when the rule was debated, it was my understanding of the limitation exactly as the chairman stated it on the 2 days in the CONGRESSIONAL RECORD and that no other amendments could be offered unless they were committee amendments; but I do not recall anything being stated that there was to be only 5 minutes in favor of the amendment and 5 minutes in opposition. I was at the Committee on Rules, and I do not recall that being there at all.

The CHAIRMAN. The pertinent language in the rule is:

> Neither of said classes of amendments shall be subject to amendment.

Mr. PEYSER. Does the chairman mean we cannot speak in support of an amendment, a member of the committee cannot rise to speak in support of or in opposition to an amendment?

The CHAIRMAN. Under clause 5, rule XXIII, only one member may speak in opposition, and under Public Resolution 963, a pro forma amendment is in order only to the bill, not to an amendment.

Mr. PEYSER. I just want to be sure I understand this, Mr. Chairman. A member, be it a member of the committee or a Member of the House, under this rule cannot speak in support of or against this amendment after the 5 minutes on either side?

The CHAIRMAN. That is correct.

Mr. PEYSER. I must say, Mr. Chairman, that I supported that rule, and I thought that rule was going to be a fair rule, but to limit major debate of this nature to 5 minutes on either side is, to me, outrageous.

PARLIAMENTARY INQUIRY

Mr. FRASER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRASER. The Chairman stated that a pro forma amendment to the bill was in order?

The CHAIRMAN. That is correct.

Mr. FRASER. Should not a pro forma amendment to the bill be considered in the nature of a perfecting amendment in order during the consideration of Mr. PEYSER's amendment?

The CHAIRMAN (Mr. PRICE of Illinois). The Chair will state that a pro forma amendment would not be in order while the amendment is pending, because that would be considered as a perfecting amendment to the amendment under consideration.

Mr. FRASER. If the Chair would permit me to state, a pro forma amendment is offered to the bill rather than to an amendment. It seems to me it would not fall under the constraint which the Chair has placed on it.

The CHAIRMAN. Under the rules there can be only one perfecting amendment pending at a time, and a perfecting amendment is pending. Therefore, a pro forma amendment would not be in order.

The question is on the amendment to the committee substitute offered by the gentleman from New York (Mr. PEYSER).

The question was taken; and the Chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. PEYSER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 87, noes 326, not voting 19, as follows:

[Roll No. 113]

AYES—87

Abzug	Giaimo	Murphy, N.Y.
Addabbo	Gilman	Nix
Annunzio	Grasso	Patten
Ashley	Green, Pa.	Peyser
Badillo	Grover	Pike
Barrett	Hanley	Podell
Biaggi	Hanna	Quillen
Bingham	Harrington	Rangel
Brasco	Hastings	Rees
Burke, Mass.	Heckler, Mass.	Reid
Carey, N.Y.	Helstoski	Riegle
Chisholm	Hogan	Rinaldo
Collins, Ill.	Holtzman	Robison, N.Y.
Conable	Horton	Rodino
Conyers	Howard	Roe
Cotter	Karth	Rosenthal
Cronin	Kemp	Rostenkowski
Daniels, Dominick V.	King	Sarasin
	Koch	Seiberling
Davis, Ga.	Lent	Steele
Delaney	McEwen	Stratton
Dellums	McKinney	Thompson, N.J.
Diggs	Madden	Vander Veen
Dingell	Maraziti	Walsh
Drinan	Metcalfe	Wolff
Dulski	Minish	Wydler
Eilberg	Mitchell, N.Y.	Yates
Fish	Moakley	Young, Ga.
Ford	Moorhead, Pa.	
Fraser	Murphy, Ill.	

NOES—326

Abdnor	Flynt	Moorhead, Calif.
Adams	Foley	Morgan
Alexander	Forsythe	Mosher
Anderson, Calif.	Fountain	Moss
	Frenzel	Murtha
Anderson, Ill.	Frey	Myers
Andrews, N.C.	Froehlich	Natcher
Andrews, N. Dak.	Fulton	Nedzi
	Fuqua	Nelsen
Archer	Gaydos	Nichols
Arends	Gettys	Obey
Armstrong	Gibbons	O'Brien
Ashbrook	Ginn	O'Hara
Aspin	Goldwater	O'Neill
Bafalis	Gonzalez	Owens
Baker	Goodling	Parris
Bauman	Green, Oreg.	Pepper
Beard	Griffiths	Perkins
Bell	Gross	Pettis
Bennett	Gubser	Pickle
Bergland	Gude	Poage
Bevill	Gunter	Powell, Ohio
Biester	Guyer	Preyer
Blackburn	Haley	Price, Ill.
Boggs	Hamilton	Price, Tex.
Boland	Hammer-schmidt	Pritchard
Bolling		Quie
Bowen	Hansen, Idaho	Railsback
Brademas	Hansen, Wash.	Randall
Bray	Harsha	Rarick
Breaux	Hawkins	Regula
Breckinridge	Hays	Reuss
Brinkley	Hébert	Rhodes
Brooks	Hechler, W. Va.	Roberts
Broomfield	Heinz	Robinson, Va.
Brotzman	Henderson	Rogers
Brown, Calif.	Hicks	Roncalio, Wyo.
Brown, Mich.	Hillis	Rooney, Pa.
Brown, Ohio	Hinshaw	Rose
Broyhill, N.C.	Holifield	Roush
Broyhill, Va.	Holt	Rousselot
Buchanan	Hosmer	Roy
Burgener	Huber	Roybal
Burke, Calif.	Hudnut	Runnels
Burke, Fla.	Hungate	Ruppe
Burleson, Tex.	Hunt	Ruth
Burlison, Mo.	Hutchinson	Ryan
Burton	Ichord	St Germain
Butler	Jarman	Sandman
Byron	Johnson, Calif.	Sarbanes
Camp	Johnson, Colo.	Satterfield
Carney, Ohio	Johnson, Pa.	Scherle
Casey, Tex.	Jones, Ala.	Schneebeli
Cederberg	Jones, N.C.	Schroeder
Chamberlain	Jones, Okla.	Sebelius
Clancy	Jones, Tenn.	Shipley
Clark	Jordan	Shoup
Clausen, Don H.	Kastenmeier	Shriver
	Kazen	Shuster
Clawson, Del	Ketchum	Sisk
Clay	Kuykendall	Skubitz
Cleveland	Kyros	Slack
Cochran	Lagomarsino	Smith, Iowa
Cohen	Landgrebe	Snyder
Collier	Landrum	Spence
Collins, Tex.	Latta	Stanton, J. William
Conlan	Leggett	
Conte	Lehman	
Corman	Litton	Stanton, James V.
Coughlin	Long, La.	
Crane	Long, Md.	Stark
Culver	Lott	Steed
Daniel, Dan	Luken	Steelman
Daniel, Robert W., Jr.	McClory	Steiger, Ariz.
	McCloskey	Steiger, Wis.
Danielson	McCollister	Stephens
Davis, S.C.	McCormack	Stokes
Davis, Wis.	McDade	Stubblefield
de la Garza	McFall	Stuckey
Dellenback	McKay	Studds
Denholm	McSpadden	Sullivan
Dennis	Macdonald	Symington
Dent	Madigan	Symms
Derwinski	Mahon	Talcott
Devine	Mallary	Taylor, Mo.
Dickinson	Mann	Taylor, N.C.
Donohue	Martin, Nebr.	Thomson, Wis.
Dorn	Martin, N.C.	Thone
Downing	Mathias, Calif.	Thornton
Duncan	Mathis, Ga.	Tiernan
du Pont	Matsunaga	Towell, Nev.
Eckhardt	Mayne	Treen
Edwards, Ala.	Mazzoli	Udall
Edwards, Calif.	Meeds	Ullman
Erlenborn	Melcher	Van Deerlin
Esch	Mezvinsky	Vander Jagt
Eshleman	Michel	Vanik
Evans, Colo.	Milford	Veysey
Evins, Tenn.	Miller	Vigorito
Fascell	Mills	Waggonner
Findley	Mink	Waldie
Fisher	Mizell	Wampler
Flood	Montgomery	Ware
Flowers	Mollohan	Whalen

White	Wilson, Charles H., Calif.	Yatron
Whitehurst	Wilson, Charles, Tex.	Young, Alaska
Whitten	Winn	Young, Fla.
Widnall	Wyatt	Young, Ill.
Wiggins	Wylie	Young, S.C.
Williams	Wyman	Young, Tex.
Wilson, Bob		Zablocki
		Zion
		Zwach

NOT VOTING—19

Blatnik	Lujan	Sikes
Carter	Minshall, Ohio	Smith, N.Y.
Chappell	Mitchell, Md.	Staggers
Frelinghuysen	Passman	Teague
Gray	Patman	Wright
Hanrahan	Roncallo, N.Y.	
Kluczynski	Rooney, N.Y.	

So the amendment to the committee substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT TO THE COMMITTEE SUBSTITUTE OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. The Chair will inquire of the gentleman, is this an amendment that was printed in the RECORD?

Mr. O'HARA. Yes, Mr. Chairman, the amendment was printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. O'Hara to the committee substitute: Page 9, 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".

Mr. O'HARA (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. O'HARA. Mr. Chairman, last week all of the members of the committee received letters from me explaining this amendment.

Mr. Chairman, very briefly, what this amendment does is to distribute two-thirds of the title I money on the basis of the number of school-age children, and the other one-third of the title I money on the basis of the low income formula in the committee bill.

The theory of my amendment is that children who are having trouble in school ought to be helped by title I programs no matter what the income of their families might be.

It seems to me that if a kid has a problem in school, a persistent reading problem or some other academic problem, his family's income is irrelevant. If he needs help, he ought to receive help.

The amendment that I am offering is based on surveys by the U.S. Office of Education, which demonstrate that two-thirds of all the children in the United States with persistent reading problems come from families with incomes above $3,000 a year.

If two-thirds of all children having persistent reading problems come from families with incomes above $3,000 a year, the title I formula ought to take this into account.

Now, obviously, Mr. Chairman, some States would get more money under my formula, and some would get less. Within States there may be additional variations, as between the two formulas.

I have sent all of the Members information about allocations to their States under my amendment, as compared to the committee bill, and I have sent to all of the Members information about the allocations of their counties, as compared with the committee bill.

If anyone missed that letter or may have misplaced it, the charts on the far end of the committee table on the majority side show State and county allocations. You are welcome, of course, to check those charts if you wish to do so.

The following States would get more title I funds under my amendment: Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington, Wisconsin, Wyoming, and the District of Columbia.

Mr. Chairman, I have two amendments which are logically related to one another, but I am offering them separately. The amendment I am offering now relates only to the formula allocation under title I. Later on I may offer an amendment which spells out a requirement that these funds be used for educational remediation on those children who are failing to keep pace with their age group—the potential dropouts—without regard to the income level of the family from which the children come.

I think my amendment makes sense from an educational point of view, because it tries to identify those children that need help and gives the help to those children.

It has been suggested by some of those who oppose my amendment that I am proposing general aid to education. As a matter of fact, I have supported general aid to education from time to time, but I am not proposing it in this amendment. As a matter of fact, the way title I now reads, general aid is provided to some districts. Under the way the bill would read if my two amendments are adopted, this one and one which I intend to offer later on, funds can be used only for remedial education of those children who are not keeping pace with their age group.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. ESCH. Will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Michigan.

Mr. ESCH. I appreciate the gentleman yielding.

I want to compliment him on his amendment and emphasize that by asking two questions.

The purpose of the gentleman's amendment is to put the dollars here where the children are in the country. Is that correct?

Mr. O'HARA. That is correct.

Mr. ESCH. And second, with the second amendment, the gentleman will use those dollars to aid those children who are the slow learners and those who really need assistance?

Mr. O'HARA. That is correct. They are two separate amendments.

Mr. ESCH. If we are really interested in aiding the children with educational deficiencies and putting the money where the children are, then we should support the amendment offered by the gentleman from Michigan (Mr. O'HARA) which I am pleased to do, and I commend the gentleman for offering it.

Mr. O'HARA. I thank the gentleman.

I now yield to the gentleman from Michigan (Mr. FORD).

Mr. FORD. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I commend my good friend the distinguished gentleman from Michigan (Mr. O'HARA) for offering his amendment. This amendment would allocate Federal education funds according to actual educational need rather than according to poverty, and it would get the Federal money out to where the schoolchildren are.

The way this program is presently being administered and the way it is expected to be administered under the bill before us, a means test would be ultimately applied to children and they would be branded as the children of poor parents as a condition to access to educational opportunity.

Mr. Chairman, we are not writing a poverty bill today. We are writing legislation to provide Federal funds for education. The title I formula is supposed to

be directed at correcting educational deficiencies among educationally deprived children—and "educationally deprived" does not necessarily imply that a child's parents are in any particular income bracket.

Under the O'Hara amendment two-thirds of the funds available under title I would be distributed directly to local school districts based upon the number of school-age children in the district. The local district would then have the freedom to provide educationally deprived children with educational assistance regardless of the income of their parents.

Mr. GAYDOS. Will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I rise in support of the amendment offered by the gentleman.

Mr. Chairman, after hearing the many hours of debate both in the Committee on Education and Labor, of which I am a member, as well as on the floor of the House, with respect to the formula for title I allocation, I have come to the conclusion that the chances of ever arriving at a formula based on the poverty components in the committee bill which will be satisfactory to a substantial majority of the Members of the House are indeed dim if not impossible.

I certainly can sympathize with my colleagues from New York who have been so forceful and articulate in expressing their opposition to the title I formula in the committee bill. On the other hand, I can certainly understand the concern of the supporters of the title I of the committee bill who feel that schools in the districts which, in their opinion, have heretofore received an inequitable share of title I funds will now receive their equitable share.

The main defect in the committee proposal for the title I formula appears to be the inclusion of AFDC children as one of the criteria. The inequity of this is pointed out most vividly in the wide disparity between States both in the number of families on AFDC as well as the monthly payments made to families. For example, while New York has 7.4 percent of the total number of schoolchildren in the country and Texas 4.5 percent, in the past 8 years, New York has added 564,248 AFDC children to its total count of title I eligible children, while Texas has added only 81,854 children. Whereas the average monthly payment to an AFDC family in New York amounts to $284.76, it amounts to only $52.94 in Mississippi.

Accordingly, Federal administrators of the AFDC who testified before the committee urged AFDC statistics not be used in distributing funds.

I suggest that now is the time to reexamine the purpose and results of title I programs to date and establish a new formula that will most equitably allocate funds to the children who are educationally disadvantaged. I agree with my distinguished colleague from Michigan (Mr. O'HARA) that the bill before the House is not a poverty bill but an educational bill. Its purpose should be to assist educationally deprived children and no to extricate people from poverty. Accordingly, we should focus our attention on the needs of children rather than on the financial status or straits of their parents.

Admittedly, statistics indicate that there is a certain correlation between educational deprivation and economic deprivation, but the Office of Education reports that two-thirds of children having persistent reading problems are from families with incomes in excess of $3,000 per year and that three-fourths of children having persistent academic problems other than reading are from families making more than $3,000 per year.

In my opinion, the formula which is set forth in the amendment offered by my colleague, Mr. O'HARA, appears to be a step in the right direction. By allocating two-thirds of title I funds on the basis of school age population, the local school districts would then be able to use Federal funds for the educationally disadvantaged regardless of whether their family financial status would meet the requirements of the title I formula in the committee bill.

It should be borne in mind that the committee bill as it now stands does provide local school districts with the option of waiving the poverty requirement regarding the selection of title I schools, "and allows the school districts to choose the schools using other means of determining educational disadvantagement, such as transciency rates, the numbers of children with limited English-speaking ability, or assessments of educational disadvantagement, or any other combination of such factors," provided that (1) such change is approved by the district-wide parental advisory council required by the Commissioner pursuant to the General Education Provisions Act, and (2) that "the means adopted must provide that the funds are concentrated in schools having concentrations of educationally disadvantaged children."

The thrust of the O'Hara amendment is to expand this concept so that aid to the educationally disadvantaged child would be the rule and not the exception.

To allay any fears that complete elimination of the poverty factor in the allocation formula will discriminate against educationally disadvantaged children from poor families, the O'Hara amendment does provide that one-third of title I funds will be allocated on the basis for the title I formula in the committee bill.

I intend to support the O'Hara amendment to title I of the bill and urge my colleagues to support it as the most equitable formula to allocate funds under title I of the bill.

Mr. MYERS. Will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. May I ask the gentleman, is he offering these two amendments en bloc, or is one amendment offered on the other or each one of them to be individually considered now?

Mr. O'HARA. I think they logically fit together, but I am offering them separately and each will stand on its own merits.

The amendment before us has to do with the formula allocation.

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

(On request of Mr. MYERS, and by unanimous consent, Mr. O'HARA was allowed to proceed for 2 additional minutes.)

Mr. MYERS. Mr. Chairman, if the gentleman will yield further, if this amendment should be defeated then could the second amendment proposed by the gentleman from Michigan be offered?

Mr. O'HARA. Yes; the next amendment could be offered, although I did not make my plans on the basis of this amendment being defeated. I am not sure I would offer it if this amendment were defeated.

Mr. MYERS. One further question: If the gentleman will yield still further, this amendment does not add additional funds to this bill, it merely reallocates them according to the children and to their need?

Mr. O'HARA. That is right, the authorization is the same, there is no extra money under my amendment.

Mr. MYERS. I thank the gentleman.

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

Mr. O'HARA. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I notice under the amendment offered by the gentleman from Michigan (Mr. O'HARA) that the State of Illinois gets approximately $4 million more under the formula proposed by the gentleman from Michigan as opposed to the formula presented in H.R. 69. And under the present distribution under the ESEA $3 million of that $4 million goes into Du Page County, which I represent. I find that exceedingly strange because Du Page County is the fourth wealthiest county in the United States in terms of per capita income, and we have less than 1 percent of nonwhite population.

I wonder how this formula could pump $3 million into Du Page County when we get now only $500,000. I would think if there ever was a county that had their own resources based on per capita income, and very few problems based on very few low-income families, that this would be the last county under anybody's formula to get such a large increase. Could the gentleman explain why that is so?

Mr. O'HARA. Mr. Chairman, I would be happy to do so.

Mr. Chairman, my formula would distribute two-thirds of the money on the basis of the number of school-age children, and one-third on the basis of low-income, low-family incomes. The one-third being designed to give additional attention to those school attendance areas with the highest number of low-income children, but recognizing the fact that two-thirds of all the children with persistent reading problems, and three-fourths of those children with persistent problems other than reading are not from low-income families. My amendment does recognize that fact. It does shift funds around within a State. The county represented by my friend, the gentleman from Illinois (Mr. ERLENBORN) would benefit but so would the

Illinois counties represented by Mr. McCLORY, Mr. ARENDS, Mr. ANDERSON, Mr. RAILSBACK, Mr. FINDLEY, Mr. MADIGAN, Mr. MICHEL, and Mr. SHIPLEY.

Mr. ERLENBORN. I take it it is pure happenstance that one Democrat happens to be helped by this amendment in Illinois?

Mr. O'HARA. I might say to the gentleman from Illinois that I find it complicated enough to work with the formula without worrying about party politics.

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

Mr. O'HARA. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I have a "dear colleague" letter signed by the chairman, the gentleman from Kentucky (Mr. PERKINS), the gentleman from Minnesota (Mr. QUIE), the gentleman from Indiana (Mr. BRADEMAS), and the gentleman from California (Mr. BELL), wherein it is pointed out that in Oakland, Calif., which is the largest metropolitan area in that district, under this formula our school district would receive $2.9 million, and under this committee bill, $4.6 million. Is this typical with respect to the gentleman's formula that these large metropolitan cities around the country would receive less money as opposed to more money to provide education under title I?

Mr. O'HARA. No; it is not typical. It varies from place to place. For instance, New York City would get more funds under my amendment than under the committee bill, although not as much as they would have gotten under the Peyser amendment.

I do not have many city figures but under my amendment, for instance, Milwaukee County would get more. In Missouri, St. Louis County gets more under my amendment than under the committee bill.

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

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. O'HARA).

Mr. Chairman, first let me state that this would be a sad day in this country in my judgment if we jerked the rug out from under the disadvantaged children that are presently receiving the benefits in the title I program.

That is exactly what the O'Hara amendment does in this instance. It takes into consideration, as he stated, distribution of the money, two-thirds on the basis of the school population in the country and one-third under H.R. 69; but by that two-thirds we make a suburban bill out of the whole situation. Naturally, we have disadvantaged kids in higher-income groups, but the real disadvantaged youngsters are in the low-income group.

Many studies have shown a high correlation between low income and doing poorly in school: 60 percent and 70 percent in many studies. Then we have isolated cases in all families of this Nation, regardless of their station in life, and regardless of the income of the families of children who have problems. But those are not the most severely disadvantaged children.

Some day I should like to see a general aid bill passed. The amendment offered by the gentleman from Michigan is nothing more or less than a general aid formula to take care of all of the areas of the country, but it will completely do grave injustice to the children that we are serving in the country, and any general aid bill should come on top of the disadvantaged bill.

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

Mr. PERKINS. I yield to the distinguished gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. I thank the Chairman for yielding.

I might say, Mr. Chairman, that a comparison of the estimated allocations under the committee formula and the O'Hara amendment shows how title I funds will be shifted from urban areas to wealthier suburban school districts:

Under the O'Hara amendment the State of Maryland receives $5.1 million more than it does under H.R 69. More than one-half of the increase is in one county, Montgomery, which also happens to be the wealthiest in the Nation. Baltimore City with many more children in need of title I services would receive $2.4 million less than under H.R. 69 and $1.3 million less than in 1974.

Under the O'Hara amendment the home State of the author (Michigan) would receive $4.8 million more than under H.R. 69. There would be about a $5.6 million increase going to Macomb and Oakland Counties, 2 of the 20 richest counties in the Nation, while Wayne County, which houses the city of Detroit, would get $4.4 million less than under H.R. 69.

Under the O'Hara amendment Illinois receives about $90 million in LEA grants. While the State as a whole gains, Cook County actually loses over $6 million and falls $5 million below the amount received in 1974 while Du Page and Lake Counties, two of the wealthiest in the Nation, gain $4.6 million.

In New York State three of the most urbanized counties: the Bronx, Kings, and New York County, will lose 10 percent of their 1974 levels; while three of the country's richest counties all gain. Nassau County is up 50 percent, Rockland is up 54 percent, and Westchester is up 5 percent.

In Virginia, which as a whole receives $2.8 million less under the O'Hara amendment, the amounts received by Fairfax and Arlington Counties increase 150 percent and 81 percent, respectively, while Norfolk and Richmond each lose the 10 percent maximum permitted under the O'Hara amendment. The increase in Fairfax and Arlington totals over $2 million.

It does seem to me, Mr. Chairman, that the effect of the amendment of the gentleman from Michigan goes contrary to the fundamental purpose of the title I program; namely, to provide education funds where they are needed by children.

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

Mr. PERKINS. I yield to the distinguished gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. I thank the Chairman for yielding.

Mr. Chairman, I think the story is sort of evolving here. The gentleman from Illinois (Mr. ERLENBORN) indicated that his district, Du Page County, Ill., would get $3 million additionally. It jumps from $1½ million to $3½ million. And Cook County loses $6 million. We know there must be something wrong with the formula, as the gentleman from Indiana has indicated, when the State of Virginia in counties nearby loses $2.8 million under the O'Hara formula, but Fairfax and Arlington Counties get 150 percent increases. That means all those poor counties where the poor kids are, who do not have the advantage of the kind of education which those in Arlington and Fairfax Counties have, lose money. That just cannot be fair.

The gentleman from Michigan is onto one point, that the poverty formula does not accurately designate who is educationally disadvantaged, but the O'Hara formula is farther off the mark. The only way to get to the mark is if we could have an assessment to find out who is actually disadvantaged.

That capability is not available to us now so there is no way we can do it. So I join with the gentleman from Kentucky in urging that we vote down the O'Hara amendment and stay with the committee amendment.

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

(On request of Mr. MEEDS, and by unanimous consent, Mr. PERKINS was allowed to proceed for 3 additional minutes.)

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

Mr. PERKINS. Mr. Chairman, before I yield to the distinguished gentleman from Washington, first let me state that Fairfax County goes up from $1,207,000 to $2,773,000 and Montgomery County, Md. goes from $1,427,000 to $3,787,000. That is the pattern of the O'Hara amendment.

I yield now to the distinguished gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I am sure the gentleman in the well would agree with me that this formula of the gentleman from Michigan does complete violence to the purpose of this act.

Mr. PERKINS. That is right.

Mr. MEEDS. Section 101 sets out in the bill the classes of special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs and so the Congress hereby declares it to be the policy, and so on, and this is a direct quotation of the purpose of this act. It is not just to aid the educationally disadvantaged children because they are educationally disadvantaged but because there are concentrations of educationally disadvantaged children who because of those concentrations are becoming further educationally disadvantaged.

Mr. PERKINS. The gentleman is exactly right.

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

Mr. PERKINS. I yield to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, it seems to me most of the conversation about this amendment has been about how much money would the individual counties get. Are we not talking about the kids and how much money will go to those disadvantaged children? When we talk about one county getting 150 percent or another county getting less by 3 percent, is it not the desire of Members to see to it that the money goes where the kids are? Unfortunately, under what happens with the committee bill, it does not follow.

Mr. PERKINS. The gentleman is incorrect altogether. We want to put the money where the kids are. That is the trouble with some of the amendments that have been offered today, but here we are trying to take care of the poorest of the poor, and before we go out into the more affluent areas we first should take care of the poorest of the poor where we have a great concentration of disadvantaged children, and our formula does just that.

Mr. WOLFF. But is it not true the formula is based entirely on the Orshansky formula which takes only one point into consideration?

Mr. PERKINS. No, it is not. The Orshansky does not do that. The Orshansky is the most fair poverty formula in my judgment that has ever been devised and it has been adopted by many other Government agencies in this Government. But the committee bill also counts AFDC children above $4,250. And I might point out to the gentleman from New York that almost all of those children are in the wealthiest States.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, I thank the gentleman for yielding. Under the committee bill do not some States get three times as much on school aid to children as some other States? Under my amendment there would still be a difference but only a difference to 2 to 1, from the highest to the lowest, so in terms of relationship to the actual number of kids I would reduce some of the disparity that is now seen.

Mr. PERKINS. Let me say to the gentleman that he would increase the disparity tremendously by placing the money in the wealthy areas of the country, and all we have to do is pick out any wealthy county we want to suggest in the United States and we will find that money is taken from the poorer counties and is going to the wealthier counties.

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

(On request of Mr. O'HARA, and by unanimous consent, Mr. PERKINS was allowed to proceed for 3 additional minutes.)

Mr. PERKINS. Mr. Chairman, before I yield further let me state about the amendment offered by the gentleman from Michigian (Mr. O'HARA), that if we were going to a general aid bill taking into consideration all the children in the country then naturally we should support the O'Hara amendment, but in trying to adopt the O'Hara approach to title I it would then change the course of the legislation and would absolutely destroy a program that has performed over a period of years, and we would have the money scattered and taken from the school districts that really needed it—in the poorer districts—and given out to the suburban areas.

We would see tremendous injustice done to the poorest of the poor in this country. It would be my hope that the entire membership of this committee would vote against the O'Hara amendment. Until the day comes that we want to go to general aid, we should not count the two-thirds of all the children unless we have the money to do that job.

As we know, with funds limited, the poorest of the poor come first. That is the difference between H.R. 69, the formula in that bill, and the amendment proposed by the gentleman from Michigan. It is my hope that all members of the committee will vote down the O'Hara amendment.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Michigan (Mr. O'HARA) to the committee substitute.

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. O'HARA. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. O'HARA. Mr. Chairman, I withdraw my point of order that a quorum is not present.

The CHAIRMAN. The gentleman withdraws his point of no quorum.

RECORDED VOTE

Mr. O'HARA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 312, not voting 17, as follows:

[Roll No. 114]

AYES—103

Abzug	Dulski	Luken
Adams	Esch	McCollister
Addabbo	Ford	McKinney
Armstrong	Fraser	Macdonald
Aspin	Gaydos	Matsunaga
Badillo	Giaimo	Mayne
Biaggi	Gilman	Melcher
Bingham	Grasso	Mezvinsky
Boland	Griffiths	Minish
Brasco	Grover	Mink
Bray	Gude	Mitchell, N.Y.
Broomfield	Guyer	Mosher
Brotzman	Hanley	Murphy, N.Y.
Brown, Mich.	Helstoski	Myers
Broyhill, Va.	Hillis	Nedzi
Carey, N.Y.	Hogan	O'Hara
Cederberg	Holt	Parris
Chamberlain	Holtzman	Patten
Chisholm	Howard	Podell
Clancy	Huber	Powell, Ohio
Cotter	Hudnut	Rangel
Cronin	Karth	Riegle
Culver	Kastenmeier	Rinaldo
Davis, Wis.	Kemp	Roe
Delaney	King	Roncalio, Wyo.
Dennis	Koch	Rosenthal
Devine	Landgrebe	Roush
Dingell	Latta	Roy
Donohue	Lent	Ryan
St Germain	Steele	Vander Veen
Sarasin	Stratton	Walsh
Stanton, J. William	Sullivan	Wolff
Stanton, James V.	Thone	Wydler
	Tiernan	Wylie
	Towell, Nev.	Yatron

NOES—312

Abdnor	Fascell	Mills
Alexander	Findley	Mizell
Anderson, Calif.	Fish	Moakley
Anderson, Ill.	Fisher	Mollohan
Andrews, N.C.	Flood	Montgomery
Andrews, N. Dak.	Flowers	Moorhead, Calif.
Annunzio	Flynt	Moorhead, Pa.
Archer	Foley	Morgan
Arends	Forsythe	Moss
Ashbrook	Fountain	Murphy, Ill.
Ashley	Frenzel	Murtha
Bafalis	Frey	Natcher
Baker	Froehlich	Nelsen
Barrett	Fulton	Nichols
Bauman	Fuqua	Nix
Beard	Gettys	Obey
Bell	Gibbons	O'Brien
Bennett	Ginn	O'Neill
Bergland	Goldwater	Owens
Bevill	Gonzalez	Passman
Biester	Goodling	Pepper
Blackburn	Green, Oreg.	Perkins
Boggs	Green, Pa.	Pettis
Bolling	Gross	Peyser
Bowen	Gubser	Pickle
Brademas	Gunter	Pike
Breaux	Haley	Poage
Breckinridge	Hamilton	Preyer
Brinkley	Hammer-schmidt	Price, Ill.
Brooks	Hanna	Price, Tex.
Brown, Calif.	Hansen, Idaho	Pritchard
Brown, Ohio	Hansen, Wash.	Quie
Broyhill, N.C.	Harrington	Quillen
Buchanan	Harsha	Railsback
Burgener	Hastings	Randall
Burke, Calif.	Hawkins	Rarick
Burke, Fla.	Hays	Rees
Burke, Mass.	Hébert	Regula
Burleson, Tex.	Hechler, W. Va.	Reid
Burlison, Mo.	Heckler, Mass.	Reuss
Burton	Heinz	Roberts
Butler	Henderson	Robinson, Va.
Byron	Hicks	Robison, N.Y.
Camp	Hinshaw	Rodino
Carney, Ohio	Holifield	Rogers
Carter	Horton	Rooney, Pa.
Casey, Tex.	Hosmer	Rose
Chappell	Hungate	Rostenkowski
Clark	Hunt	Rousselot
Clausen, Don H.	Hutchinson	Roybal
Clawson, Del	Ichord	Runnels
Clay	Jarman	Ruppe
Cleveland	Johnson, Calif.	Ruth
Cochran	Johnson, Colo.	Sandman
Cohen	Johnson, Pa.	Sarbanes
Collier	Jones, Ala.	Satterfield
Collins, Ill.	Jones, N.C.	Scherle
Collins, Tex.	Jones, Okla.	Schneebeli
Conable	Jones, Tenn.	Schroeder
Conlan	Jordan	Sebelius
Conte	Kazen	Seiberling
Conyers	Ketchum	Shipley
Corman	Kuykendall	Shoup
Coughlin	Kyros	Shriver
Crane	Lagomarsino	Shuster
Daniel, Dan	Landrum	Sisk
Daniel, Robert W., Jr.	Leggett	Skubitz
	Lehman	Slack
	Litton	Smith, Iowa
Daniels, Dominick V.	Long, La.	Snyder
	Long, Md.	Spence
	Lott	Staggers
Danielson	Lujan	Stark
Davis, Ga.	McClory	Steed
Davis, S.C.	McCloskey	Steelman
de la Garza	McCormack	Steiger, Ariz.
Dellenback	McDade	Steiger, Wis.
Dellums	McEwen	Stephens
Denholm	McFall	Stokes
Dent	McKay	Stubblefield
Derwinski	McSpadden	Stuckey
Dickinson	Madden	Studds
Diggs	Madigan	Symington
Dorn	Mahon	Symms
Downing	Mallary	Talcott
Drinan	Mann	Taylor, Mo.
Duncan	Maraziti	Taylor, N.C.
du Pont	Martin, Nebr.	Thompson, N.J.
Eckhardt	Martin, N.C.	Thomson, Wis.
Edwards, Ala.	Mathias, Calif.	Thornton
Edwards, Calif.	Mathis, Ga.	Treen
Eilberg	Mazzoli	Udall
Erlenborn	Meeds	Ullman
Eshleman	Michel	Van Deerlin
Evans, Colo.	Milford	Vander Jagt
Evins, Tenn.	Miller	Vanik

Veysey	Wiggins	Yates
Vigorito	Wilson, Bob	Young, Alaska
Waggonner	Wilson,	Young, Fla.
Waldie	Charles H.,	Young, Ga.
Wampler	Calif.	Young, Ill.
Ware	Wilson,	Young, S.C.
Whalen	Charles, Tex.	Young, Tex.
White	Winn	Zablocki
Whitehurst	Wright	Zwach
Whitten	Wyatt	
Widnall	Wyman	

NOT VOTING—17

Blatnik	Minshall, Ohio	Sikes
Frelinghuysen	Mitchell, Md.	Smith, N.Y.
Gray	Patman	Teague
Hanrahan	Rhodes	Williams
Kluczynski	Roncallo, N.Y.	Zion
Metcalfe	Rooney, N.Y.	

So the amendment to the committee substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PEYSER TO THE COMMITTEE SUBSTITUTE

Mr. PEYSER. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. Is this an amendment that was previously printed in the RECORD?

Mr. PEYSER. Yes, it was.

The Clerk read as follows:

Amendment offered by Mr. PEYSER to the committee substitute: Page 28, beginning with line 10, strike out everything down through line 11, page 36, and insert in lieu thereof the following:

SEC. 102. Section 103 of title I of the Act is amended to read as follows:

SEC. 103. (a)(1)(A) There is hereby 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 Commissioner shall allot 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 such grants. In addition, he shall allot from such amount to the Secretary of the Interior—

(i) the amount necessary to make payments pursuant to subparagraph (B); and

(ii) the amount necessary to make payments pursuant to subparagraph (C).

The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(B) The terms on which payment shall be made to the Department of the Interior shall include provision for payments by the Secretary of the Interior to local educational agencies with respect to out-of-State Indian children in the elementary or secondary schools of such agencies under special contracts with that Department. The amount of any such payment may not exceed for each such child, one-half the average per pupil expenditure in the State in which the agency is located.

(C) The maximum amount allotted for payments to the Secretary of the Interior under clause (ii) in the third sentence of subparagraph (A) for any fiscal year shall be the amount necessary to meet the special educational needs or deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, as determined pursuant to criteria established by the Commissioner. 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 part. Such agreement shall contain (1) 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 13(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (2) provision for carrying out the applicable provisions of sections 181(a) and 183(a)(9).

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this part for any fiscal year shall be (except as provided in paragraph (3)) an amount equal to the Federal percentage (established pursuant to subsection (c)) of the average per pupil expenditure in that State except that if the average per pupil expenditure in the State is less than the average per pupil expenditure in the United States, such amount shall be the average per pupil expenditure in the United States, or if the average per pupil expenditure in the State is more than 130 per centum of the average per pupil expenditure in the United States, such amount shall be 130 per centum of the average per pupil expenditure in the United States, multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) all of the number of children in the school district of such agency who are aged five to seventeen, inclusive and who are in families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) 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, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to paragraph (7) of this subsection for the purpose of a grant to a State agency, or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum 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 maximum amount shall be equal to the Federal percentage of such per pupil expenditure multiplied by the number of children of such ages in such county or counties who are described in clauses (A), (B), or (C) of the previous sentence, 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. Notwithstanding the foregoing provisions of this paragraph, 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 the first sentence of this paragraph, 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 regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(3)(A) If the maximum amount of the grant determined pursuant to paragraph (1) or (2) for any local educational agency is greater than 50 per centum of the sum budgeted by that agency for current expenditures for that year (as determined pursuant to regulations of the Commissioner), such maximum amount shall be reduced to 50 per centum of such budgeted sum.

(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 maximum grants for those agencies among them in such manner as it determines will best carry out the purpose of this part.

(4) The grant which Puerto Rico shall be eligible to receive under this part for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 130 per centum of the average per pupil expenditure in the United States.

(5) 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.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a).

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) For the purposes of this section, the "Federal percentage" shall be 40 per centum and the "low-income factor" shall be $3,750 for each fiscal year of this Act, except that no county shall receive less than 100 per centum of the amount they have received for the previous fiscal year.

(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available

from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor from payments under the programs of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, 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.

When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income of less than the low-income factor (established pursuant to subsection (c)) in each country or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(e) For the purpose of this section, "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 earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies as defined in section 303(6)(A) 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 sources 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.

Renumber all following sections accordingly, and on page 48, line 10, strike "85" and insert in lieu thereof "100".

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

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

There was no objection.

Mr. PEYSER. Mr. Chairman, I am offering another amendment at this time that brings about a considerable change over the amendment I previously offered on the floor.

This amendment reduces the $4,000 level to $3,750.

Mr. Chairman, this amendment puts a limit on the amount of credit given these States who expend far more than the national average. In this case, the State of New York is severely affected in that New York expends 150 percent of the national average. Under this proposal it is limited to 130 percent.

Mr. Chairman, there are some significant facts that the Members should know. We have heard my good friend, the gentleman from Indiana, reel off a number of States that he says would lose money under my amendment. The gentleman was referring to the first year of the committee bill, and not at the time the Orshansky formula takes affect I think it is important to realize that we are talking not about a 1-year bill, but a 3-year bill.

The net effect of the proposed amendment is to level out the moneys going into the metropolitan areas and redistributing it among smaller communities. The cities will benefit by the 100 percent hold-harmless as well as all other areas of the country. This is the equivalent of a $10 million loss for the city of New York, but, nevertheless I feel that this is the best we can do in the House not only for New York City but every other urban area. I wish it were possible to go over with each Member at this time and show them the impact, the impact here is that over 190 congressional districts will gain in this formula over the previous formula. One hundred and ninety districts will gain over the committee bill. The gain is based not on the first year alone, but on the first 3 years.

I am not questioning anybody's motives on this floor as to what has been said before. I am convinced everyone wants to get money for the children of our country. We are simply waging a fight to get money to the poorer areas, the poorer areas should not be made to suffer. Under the committee bill these areas are definitely losing out far beyond what they should be losing.

I think the Members will recall the figures we gave before that showed many small communities with either no growth in population, or a loss in population gain anywhere from 100 to 250 percent. This has to be wrong.

We cannot let a program go in that puts the money and rewards areas—and I am not even convinced these little areas want this kind of money because their programs and their children are not there. We are simply going to force them to create new programs that they are not even asking for at this point, with this additional money.

I ask the Members to give serious consideration to this. It is a major step-up for most of these suburban and rural areas. The net result of the 100-percent hold-harmless is that nobody will lose. Out of the 401 counties who lose in the committee bill, there will not be a county to lose under this proposal.

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

Mr. Chairman, this formula carries the same inequities. It is an unfair formula. It provides 100-percent hold-harmless. That means one would still use the 1960 census information. Any time we use 100-percent hold-harmless, we stay with 1974, which used a hold-harmless. In fiscal year 1974 we held every State harmless 100 percent from what they were in 1973. All of this means that we are using the 1960 census as a basis for the formula.

If the Peyser amendment is agreed to, we will continue to pay for kids that were in those school districts back in 1960. Not only are they not in school any more, but there has been a dramatic shift around the country. Some school districts have had a reduction in the number of poor kids; some have had a reduction in the total number of kids in their schools. Why pay teachers to teach children who are not there? It just does not make sense.

In our formula we protect against any kind of a rapid change in money by putting in an 85-percent hold-harmless, and that ought to be adequate, so the adjustments can be made in the schools. Mr. Peyser's amendment also goes away from the Orshansky formula. Before it discounted every family who had a size of five or more. Now it discounts those above four, so that it is just a more inequitable formula than the other one that was offered. I cannot see how any Member can go for this formula. It is worse than the one before.

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

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

Mr. BELL. I thank the gentleman for yielding.

I should like to point out that the Members from New York keep referring to the millions or more youngsters in New York. Actually that is not true. California has 4.9 million children and New York has 4.3 million children; yet New York is getting $200 million under the H.R. 69 formula and California is getting $153 million, so New York does better under this formula than they seem to believe.

Mr. QUIE. I will say to my colleague, the gentleman from California, that under the other Peyser amendment New York would get $120 million more than California. Under this one they will get $102 million more than California. As we indicated, we have as many poor kids in California as in New York.

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

Mr. QUIE. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman for yielding.

I would just observe that under the gentleman's present amendment his State would get $45 million more in total than under the committee bill. Of course, if that happens, other States and communities will lose. Among the counties that will be losing are the ones that do have concentrations of poor children also, like Chicago, Los Angeles, Detroit, Houston, Milwaukee, San Francisco, San Antonio, St. Louis, Memphis, New Orleans, Phoenix, Jacksonville, Pittsburgh, and Denver. It seems to me this is another version of the amendment just defeated, and I hope that it will again be defeated.

Mr. QUIE. Yes. I would say that I

voted against the other one, and I would vote against this one.

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

Mr. QUIE. I yield to the distinguished gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

The Peyser amendment would enable New York State to pick up $40 million here; am I correct?

Mr. QUIE. A little more than that.

Mr. PERKINS. I personally do not object to any State getting as much money as they possibly can, but here we have the built-in inequity of AFDC during the 1974 appropriations. Am I correct?

Mr. QUIE. The gentleman is right. The inequitable formula that is presently law would continue to get worse.

Mr. PERKINS. If the purpose of this bill is to serve the poorest of the poor, then this plays into the hands of the wealthier States. They can make the highest AFDC payments, and this gets away from the principle of uniformity.

Mr. QUIE. The gentleman is correct.

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

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

Mr. GROSS. I thank the gentleman for yielding.

Mr. Chairman, could this be described as the wolf-in-sheep's-clothing amendment?

Mr. QUIE. The gentleman could be correct.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER) to the committee substitute.

The question was taken; and on a division (demanded by Mr. PEYSER) there were—ayes 17, noes 73.

So the amendment to the committee substitute was rejected.

AMENDMENT OFFERED BY MR. LANDGREBE TO THE COMMITTEE SUBSTITUTE

Mr. LANDGREBE. Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

Amendment offered by Mr. LANDGREBE to the committee substitute: Page 50, line 25, insert "(1)" immediately after "(d)".

Page 51, immediately after line 2, insert the following new paragraph:

(2) Section 144(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated to carry out this title, not to exceed $1,810,000,000 for the fiscal year ending June 30, 1974, $1,357,500,000 for the fiscal year ending June 30, 1975, $905,000,000 for the fiscal year ending June 30, 1976, and $452,500,000 for the fiscal year ending June 30, 1977.".

Mr. LANDGREBE. Mr. Chairman, little did I think, when I introduced my "freer education" bill last October that I would get the kind of result which I have gotten. Little did I know I would receive over 1,500 letters from more than 40 States. Little did I realize that I would have editorials in the major newspapers across this country and in many pamphlets and magazines.

Little did I realize that I would have so many professional educators, superintendents, and principals of schools, teachers and school board members and the president of the Association of State Boards of Education—writing to me and encouraging me to really be positive about phasing out Federal control of education.

Little did I realize that we would see, this winter in this cold weather, the mothers and fathers come out to express their concern for what is happening to the education of our boys and girls. Little did I realize the numbers of surveys and studies of education that were going to be exposed or presented to the people of this country showing what a horrible failure those Federal education programs have been over this decade.

I did not realize even how bad education was myself until I saw some of these surveys and studied them and heard parents express their concerns about what Federal intervention and Federal regulation are doing to the boys and girls in our schools.

Mr. Chairman, this amendment would phase out the education funding over a 4-year period. I understand that there will be amendments offered that would provide for alternative funding at the State level through changes in the tobacco laws.

However, from 1961 to 1972 school spending in the United States rose from $17 billion to $48.6 billion, a 186-percent increase, while the students in our schools increased by only 26 percent; yet the Scholastic Aptitude Test scores, taken by high school seniors, have declined every year for the last 10 years.

We have heard a great deal about Watergate and the effects on the elections. Let me tell my dear colleagues that this education bill and the way we deal with it today is going to have a very major effect on some of our elections this year, because people are stirred up and they simply are not going to take any more of this psychological testing, this atheistic humanism.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield for a question?

Mr. LANDGREBE. I will not yield to the gentleman from Indiana.

In addition, this act has led to far too much control of Federal education. It has created a vast bureaucracy that operates out of public view and control. In fact, we have indications that the administrative cost is approximately 26 percent. In other words about $470 million of the $1.8 billion spent on title I in 1973 was absorbed by the Federal bureaucracy.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. LANDGREBE was allowed to proceed for an additional 5 minutes.)

Mr. LANDGREBE. Mr. Chairman, I think it is time to mandate the welfare experts to handle the problems of poverty and to have our educators concentrate once more on educational problems.

I know of no study that indicates a direct relationship between the income level of parents and the learning ability of their children.

I did not realize that Time magazine would be concerned about the drop in our education levels when I introduced my bill in October, nor did I ask for the article this month in the April issue of Reader's Digest.

This article says that there are some 7 million schoolchildren who have severe reading problems. There are 7 million school youngsters who have severe reading problems, even though we are spending 186 percent more dollars on education than we did years ago.

The Louis-Harris survey found in 1971 that close to 19 million Americans over the age of 16 have difficulty with minimum reading ability.

Mr. MADDEN. Mr. Chairman, will my good friend and neighbor from Indiana yield?

Mr. LANDGREBE. I have not yielded, Mr. Chairman.

Mr. MADDEN. Mr. Chairman, we cannot hear him. I make a point of order.

Mr. Chairman, I think the House should be in some order here, because I have not heard a speech advocating phasing out Federal aid to education in 40 years, and I want to hear what the gentleman is saying.

Mr. LANDGREBE. Mr. Chairman, I did not anticipate such a cooperative mood from my colleague from Indiana, since we did not get along quite that well before the Rules Committee a few weeks ago, but regardless of that, this article in Reader's Digest indicates that the Scholastic Aptitude Test, which is taken each year by a million high school students, shows that for 10 straight years the average score has been dropping, and over the past decade it has dropped 35 points, or about 7 percent.

I could read the magazine to the Members longer, but I think that is rather conclusive and speaks for itself. I am really, honestly concerned about what is happening to education in America, and I am a strong advocate of good education.

I am not, however, particularly a strong advocate of throwing money in every direction. During the short time I have been a Member of this Congress, the interest on our national debt alone has risen from $14 billion to an anticipated $29 billion for fiscal year 1975.

Mr. Chairman, we are simply going to have to at some point face up to the fact that we might run out of borrowing power.

What is happening out in the States? The Governor of California, Ronald Reagan explained that they are returning to the taxpayers in a one shot deal $800 million. They have got money running out of their ears out there in the beautiful State of California.

In Indiana, when the present Republican administration took over from another Republican administration, there was $100 million of money in the State treasury. Since that time, we have increased the sales tax from 2 to 4 percent. I cannot believe that Indiana cannot well afford to educate its kids. In fact, for every dollar Indiana gets from the Federal Government, we are paying $1.60 for it to start with.

I am concerned about how in America we can get out of the situation. The

quicker we get the Feds out of this business of education, the better off we will be.

Mr. Chairman, I urge the Members to vote for my amendment.

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

Mr. Chairman, I do not intend to take 5 minutes, because I do not feel at this time, at this late stage of the game, it is necessary to argue that long about whether or not we should be phasing out what all experts consider to be probably the best Federal aid to education program that we have. The report of Berke and Kirst noted that—

> As a fiscal device . . . it (being the elementary and secondary education act) (is) . . . an immense success.

Unquestionably, the program does provide substantial amounts of additional assistance to school districts with the greatest financial need. In fact, Mr. Chairman, Berke and Kirst's study of school finance concluded that title I's "record is clearly the best of any program in American educational finance."

The largest study of American school finance ever funded by the U.S. Office of Education reached much the same conclusion, Mr. Chairman. It said that the study which they conducted recognized the potential of title I, if it be adequately funded, to bring true equalization of resources among school districts within States.

It concluded:

> Title I revenue funds, more than any other revenue source considered in this study, are allocated to those districts where pupils had the greatest educational needs as reflected by mean achievement test scores.

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

Mr. MEEDS. I yield to the gentleman from Indiana.

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

I think that my beloved friend and neighbor, the gentleman from Indiana (Mr. LANDGREBE), in his remarks in support of his proposed amendment, really gave the most telling argument as to why we should reject the amendment.

He said, among other matters, in quoting the Reader's Digest article, if I recall correctly, that there were some 7 million children with reading problems in the United States.

That surely ought to be a weight upon the conscience of us all, and it certainly gives more justification for the proposition that we should not remove the relatively modest support that the Federal Government today gives to public elementary and secondary education, which runs something in the neighborhood of 7 percent of the total bill.

I think, therefore, that the gentleman from Indiana would be disserved, as indeed would many schoolchildren not only of his district, but in the districts of all the States in our Nation, if the gentleman's amendment was adopted.

It is, I think, significant, Mr. Chairman, that today we have been debating not whether there ought to be Federal partnership in support of the schools of our country; rather, we have been debating the fairest way of providing that support.

I hope, therefore, Mr. Chairman, that the amendment offered by the gentleman from Indiana will be overwhelmingly rejected.

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

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

Mr. ROUSSELOT. Mr. Chairman, I wonder if we can show, however, for all of these Federal dollars that we have poured into trying to improve reading and reading techniques, that the Federal Government can actually show the results to be effective, can it be shown that those Federal dollars spent for that purpose have really done the job the complete way.

Mr. Chairman, I rise in opposition to final passage of H.R. 69 for the following reasons:

First. This legislation further centralizes and tightens the grip of Federal bureaucracy over our educational process and allows a few individuals at the Federal level to dictate educational policy for nearly every school system in the Nation;

Second. The Elementary and Secondary Education Act is but another highly visible impetus for an evolutionary process that is abridging the right of every parent to determine the nature of their child's education;

Third. The bureaucracy nurtured by this misguided legislation is leading us further and further from a free and local system in education. This road to educational "big brotherism" is strangling our system and shackling what the diversity of our people require—that it be an educational system rooted in a free marketplace of ideas; and

Fourth. The most obvious reason for opposing this legislation is its proven ineffectiveness. We have seen more than $13 billion in taxpayer money pumped into the hungry jaws of this bureaucratic program since its enactment in 1965, and we have no substantial proof to show that it has provided meaningful and quality education except that the requests for more taxpayer money increased.

To buttress this point, an article published in the Alhambra Post-Advocate, March 16, 1974, written by Kenneth Rabben of Copley News Service, indicates title I has received more than 85 percent of ESEA money and "considerable evidence shows that it not only has failed, but that some youngsters in title I programs fell further behind in basic skills."

We must stop this trend toward continued Federal involvement in the education field, now, today, and return to our States and local governments the freedom to finance and administer their own school systems.

The full text of the Copley News Service article follows:

SUPPORT GROWS FOR FREER SCHOOLS

(By Kenneth Rabben)

The House of Representatives soon will be asked to save taxpayers billions of dollars by phasing out a major education program that has not educated.

The program is the Elementary and Secondary Education Act of 1965, and it has cost more than $13 billion since its enactment. It will be extended for three years and refunded to the tune of nearly $2 billion the first year under provisions of H.R. 69, if the House approves it in the next few weeks.

More than 85 per cent of ESEA money is allocated to its Title I, aid to so-called disadvantaged children.

Despite some tortured statistical efforts, there is no substantive data to show that ESEA and Title I have improved pupils' education. On the contrary, considerable evidence shows that it not only has failed, but that some youngsters in Title I programs fell further behind in basic skills.

The ESEA, its opponents charge, has brought the federal government's heavy-handed control into nearly every classroom, subverted parental authority and created a massive bureaucracy far in excess of the dollar amount of the programs.

Rep. Edith Green, D-Ore., reported that in Oregon, more than 20 per cent of federal funds received were used to administer the programs. In an Indiana school district, half of $14,000 in Title I funds went for administration.

State education departments, county school headquarters, major city and suburban school systems and others are said to have hired costly staffs just to find ways to get federal funds and shuffle the papers.

Mr. MEEDS. Mr. Chairman, indeed there are a number of studies that show where the money and the funding have been forthcoming under title I and other programs, that reading levels have been significantly raised. There are a number of studies that conclude that the program under title I and other remedial programs have been directly responsible for that impovement.

Mr. BRADEMAS. Mr. Chairman, I will add, if the gentleman from Washington will yield further, that the title I program is not solely to be directed toward improving reading skills, but funds under it may be used for whatever purposes the local school authority, not the Federal Government, determines important in improving the education of these children in those school districts.

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

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

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Chairman, is it no true that in the Coleman report it did show that moneys spent did not necessarily deliver better reading habits; is that not true?

Mr. MEEDS. In one part of the Coleman report, it did say that, and they were understandably concerned about the fact that title I was not being adequately funded. They pointed out in those places where adequate funds were forthcoming under programs that reading levels and education levels are significantly helped in those instances.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. LANDGREBE) to the committee substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LANDGREBE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee substitute was rejected.

AMENDMENT OFFERED BY MR. MEEDS TO THE COMMITTEE SUBSTITUTE

Mr. MEEDS. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. The Chair will inquire of the gentleman, has the amendment been printed in the RECORD?

Mr. MEEDS. It has, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS to the committee substitute: 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, 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.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the committee substitute be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from Washington is recognized for 5 minutes.

Mr. THOMPSON of New Jersey. Will the gentleman yield?

Mr. MEEDS. I am delighted to yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Chairman, I have printed on the same page as was printed the amendment of the gentleman from Washington an amendment on the same subject.

Following a careful study of my amendment in comparison with this amendment I have determined that his amendment will do the job better, and I shall, therefore, not offer my amendment but, rather, urge support of the gentleman's amendment.

Mr. MEEDS. I think the gentleman from New Jersey.

Mr. BELL. Will the gentleman yield?

Mr. MEEDS. I am delighted to yield to the gentleman from California.

Mr. BELL. We are happy to accept the amendment.

Mr. MEEDS. Mr. Chairman, I appreciate the support on both sides of the aisle.

For the benefit of the Members, however, I think we should explain what the amendment does.

Mr. PERKINS. Will the gentleman yield to me?

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

Mr. PERKINS. I will say to the distinguished gentleman from Washington that we accept his amendment on this side. We carefully worked out this concept back in 1965, and it would be a mistake now to disturb it. All groups backed the concept, and they now support this amendment.

The gentleman has a good amendment, and it should be accepted.

Mr. DENNIS. Will the gentleman yield?

Mr. MEEDS. If I may first explain the amendment.

Mr. DENNIS. That is what I would like to have the gentleman do.

Mr. MEEDS. Mr. Chairman, my amendment is to section 109 of the bill.

I have discussed this amendment with the chairman of the committee, with the author of the committee amendment which my amendment would amend, the gentleman from Minnesota (Mr. QUIE) and with the gentleman from New Jersey (Mr. THOMPSON) and can report to my colleagues that all of us are in agreement that the amendment should be adopted.

I might add at this point that the amendment which appears in its entirety in the CONGRESSIONAL RECORD, page H1831 of March 14, 1974, has the agreement and concurrence of those who are primarily concerned with fair and equitable treatment of educationally deprived children who do not attend public schools as well as the National Education Association and the National School Boards Association.

The purpose of my amendment is to make sure that the bypass provisions for title I maintain the requirements of existing law. These were carefully worked out in 1965 with the original enactment of the Elementary and Secondary Education Act of 1965.

My amendment can truthfully be classified as a technical one making sure that the criteria for furnishing programs and services to educationally deprived children who do not attend public school are in accordance with existing law.

Thus, my amendment would first accomplish this objective.

In addition, it would make clear that there would be no cutoff of that portion of the funds which are to be used by local educational agencies in furnishing services to public school pupils where the Commissioner had made a determination that the bypass would be invoked.

Finally, my amendment would provide an administrative and judicial review for the affected local educational agency or State in the event that the Commissioner invoked a bypass. This judicial review is closely patterned after the judicial review provisions now in title I but applicable only to other determinations by the Commissioner.

Mr. DENNIS. Will the gentleman yield?

Mr. MEEDS. I am delighted to yield to the gentleman.

Mr. DENNIS. I would like to ask a question for information. I do not know much about this field of by-passes, and it all bypasses me, frankly, but I know this particular section of the bill deals with aid to private schools, and if I understand it correctly, the bill permits that as it stands. I want to know whether that is correct.

Then I want to know exactly how the gentleman's amendment changes it.

Mr. MEEDS. Indeed, the bill does not permit it as it stands.

Mr. QUIE. Will the gentleman yield?

Mr. MEEDS. I will be delighted to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I think we should be careful, this does not provide nor does the law provide, any money for private schools.

Mr. MEEDS. That is correct.

Mr. QUIE. It is only for the children at private schools. The administration of all this money is by either public school or a public agency, and in that way it is completely constitutional.

Mr. MEEDS. There is a provision in the committee bill of which the gentleman from Minnesota was the sponsor which allows the Secretary of Health, Education and Welfare to provide programs for students in private schools under certain circumstances.

We call this a bypass, where these are not provided in other ways, that they should be, the Secretary can provide them directly. My amendment requires the bypass provision to be utilized the same way the rest of title I is utilized when these funds are used for students who do not attend the public school, that is all it does.

Mr. DENNIS. If the gentleman will yield further, without the gentleman's amendment what is the effect of the bill then?

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

(On request of Mr. DENNIS, and by

unanimous consent, Mr. MEEDS was allowed to proceed for 2 additional minutes.)

Mr. MEEDS. Without the amendment there would not be these strictures on the expenditure of these funds that are contained in title I. These bypass funds. I am sure the gentleman would support that.

Mr. DENNIS. I am not opposed to the gentleman's amendment. I am trying to get educated. As I understand it, all it does is to continue to permit the money to be used for children in private schools, but assures it will be used in the same manner for those children as it is for children in public schools, is that it?

Mr. MEEDS. In the same manner as it is now authorized in title I.

Mr. DENNIS. Which would be children in public schools.

Mr. MEEDS. For children in private schools under certain circumstances.

Mr. DENNIS. Yes, but they are using it for children in private schools in the same manner as other children.

Mr. MEEDS. As it would be used in other circumstances for children in private schools.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield for clarification?

Mr. DENNIS. I will be glad to have the gentleman yield because I believe I need clarification.

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

Mr. THOMPSON of New Jersey. Mr. Chairman, during the debate on the original Elementary and Secondary Education Act of 1965, the distinguished gentleman from New York (Mr. CAREY) and I worked out an amendment which exists in the law now which allows the public school systems to establish supplemental educational facilities, not in private schools, but elsewhere, the use of which can be shared by both private and public school youngsters together. The Supreme Court has held this to be constitutional. The effect of the amendment offered by the gentleman from Washington (Mr. MEEDS) would be to leave it as it is. In other words, the law does not allow the lending of certain tax equipment, or the sending in of teachers or direct aid to the private schools, and the gentleman is just buttressing this existing law.

Mr. DENNIS. The gentleman is afraid if he does not buttress it there might be a constitutional problem?

Mr. THOMPSON of New Jersey. I think there would be a constitutional problem.

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

(On request of Mr. QUIE, and by unanimous consent, Mr. MEEDS was allowed to proceed for 2 additional minutes.)

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

Mr. MEEDS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I would ask the gentleman, is it not correct that the language as is now in the bill, and the way the committee expected it to be administered, is exactly the way the gentleman has in his amendment?

Mr. MEEDS. It is indeed.

Mr. QUIE. However, some individuals raised the question as to whether it was clear enough so the gentleman is now putting in the statute exactly what the committee intended, and which was acceptable to both sides in this whole argument.

Mr. MEEDS. That is precisely why I said this is a technical amendment that carries out the intent of the committee that the funds under the bypass be administered in the same way in this regard as other funds are administered in title I.

Mr. QUIE. I thank the gentleman.

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

The CHAIRMAN. Does the gentleman from Iowa rise in opposition to the amendment?

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

The CHAIRMAN. Under the rule, the gentleman cannot be recognized for a pro forma amendment, but he may speak in opposition to the amendment.

Mr. GROSS. My pro forma amendment is filed in the RECORD.

The CHAIRMAN. That is to the bill. There is an amendment pending at this time.

The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS) to the committee substitute.

The amendment to the committee substitute was agreed to.

AMENDMENT OFFERED BY MRS. MINK TO THE COMMITTEE SUBSTITUTE

Mrs. MINK. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mrs. MINK. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mrs. MINK to the committee substitute: 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."

Mr. MEEDS. Mr. Chairman, will the gentlewoman yield for the purpose of a unanimous-consent request?

Mrs. MINK. I will yield to the gentleman from Washington for that purpose.

Mr. MEEDS. Mr. Chairman, I ask unanimous consent that at the end of the amendment after the word "Islands" the following words be added: "and to the Secretary of the Interior for payments pursuant to (d)(1) and (d)(2)."

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

Mr. DENNIS. Mr. Chairman, reserving the right to object, I do not know anything about the subject matter. I just object to the unanimous-consent request until somebody explains it so we know what we are considering.

The CHAIRMAN. The Clerk will report the amendment to the committee substitute as modified.

The Clerk read as follows:

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, the Trust Territory of the Pacific Islands and to the Secretary of the Interior for payments pursuant to (d)(1) and (d)(2).

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

Mr. QUIE. Mr. Chairman, reserving the right to object, and I shall not object, would the gentleman from Washington explain his addition? I will yield to him for that purpose.

Mr. MEEDS. I would be delighted to. This, again, Mr. Chairman, is a technical matter, but when the formula was changed to change the status of Puerto Rico which was previously receiving 3 percent of the funds with the Virgin Islands, Guam, and the Secretary of the Interior, the remaining ones were cut back to 1 percent. Guam, American Samoa, Trust Territories, the Virgin Islands, and the Secretary of the Interior.

The gentlewoman's amendment without the addition would assure that the outlying territories mentioned therein would receive what they received last year, because the 1 percent was not quite adequate to do that.

Ordinarily the language "and the Secretary of the Interior" would be in there because it was in the original act. The Secretary uses this title I money for Indians.

My amendment restores language omitted so that the programs for Indians will be held harmless as well as programs for the territories. It is technical to bring it in conformance with the rest of the act.

Mr. QUIE. Mr. Chairman, I thank the gentleman for his explanation. I think that is a good amendment as the unanimous-consent modification would change it.

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

There was no objection.

The CHAIRMAN. The gentlewoman from Hawaii is recognized for 5 minutes in support of her amendment.

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

Mrs. MINK. I yield to the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, in my judgment the amendment offered by the gentlewoman from Hawaii (Mrs. MINK) does the least damage, so far as draining

off funds from the other 50 States, of any of the amendments offered with respect to the outlying areas. It would cost about $900,000, and we certainly do not intend to do the outlying areas any harm under H.R. 69. This just guarantees, as I understand it, the amount of money they are presently receiving and so far as the committee is concerned we accept this amendment.

Mrs. MINK. Mr. Chairman, I would like to concur with the statement made by the chairman of the full committee.

The purpose of this amendment is very simple. It has already been explained. The committee bill considers Puerto Rico as a State. Accordingly the set aside amount for the outlying territories and Indians was reduced from 3 percent to 1 percent. It was our information at the time we made this cut that there would be sufficient funds under the 1-percent allocation to take care of the current level of services for the territories and Indians. However, after the refinements of the bill had been looked at and determined we discovered it would be far below the current level, so my amendment is simply a hold harmless provision for the territories and Indians.

Mr. DE LUGO. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the Delegate from the Virgin Islands.

Mr. DE LUGO. Mr. Chairman, I rise to commend the gentlewoman from Hawaii for her amendment and also to thank the distinguished chairman of the Committee on Education and Labor for his support, as well as the ranking minority member for his support.

Mr. Chairman, I rise to speak briefly on behalf of the amendment offered by the distinguished member of the Education and Labor Committee, Congresswoman PATSY MINK.

As the Congress has so often recognized, the future well-being and strength of our Nation is dependent upon the quality of the education which we provide our young people. Likewise, educational quality can be achieved only by making available the resources and personnel necessary to carry out this task.

We in the Virgin Islands are acutely aware of the demands and sacrifices which must be made in order to provide academic training at the elementary and secondary level. A sudden recent influx of alien children with diverse linguistic, cultural, and educational backgrounds and experiences has almost doubled our school age population in the last 3 years, and has created unique problems for our teaching profession. The additional funds which would be made available through this amendment are not only most welcome, but are absolutely essential if the Virgin Islands school system is to meet its responsibilities to the children of the territory. Therefore, I urge the House to adopt this amendment as expeditiously as possible.

I am particularly grateful to the gentlewoman from Hawaii (Mrs. MINK) for introducing this amendment and for working so hard for its adoption; to Congressman PHIL BURTON who as usual has been tireless in his efforts to assist the Virgin Islands; to Congressman LLOYD MEEDS, a good friend of the Islands and a skilled floor manager for this legislation; to one of the great leaders in the cause of better education, Congressman AL QUIE, the ranking Republican member of the Education and Labor Committee; and finally to the distinguished committee chairman, CARL PERKINS for agreeing to accept consideration of this proposal which has such profound meaning for the Virgin Islands and other offshore areas.

Mr. WON PAT. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the Delegate from Guam.

Mr. WON PAT. Mr. Chairman, I rise in full support of the amendment offered by the gentlewoman from Hawaii.

I also want to applaud the distinguished chairman of the Committee on Education and Labor for accepting the amendment offered by the gentlewoman and likewise the ranking minority member for accepting this amendment.

Mrs. MINK. Mr. Chairman, I urge the committee to support my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK) to the committee substitute.

The amendment to the committee substitute was agreed to.

AMENDMENT OFFERED BY MR. BRADEMAS TO THE COMMITTEE SUBSTITUTE

Mr. BRADEMAS. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. Has the amendment been printed in the RECORD?

Mr. BRADEMAS. It has.

The Clerk read as follows:

Amendment offered by Mr. BRADEMAS to the committee substitute: Page 34, line 13, insert after "year" the following: "(using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January).".

Mr. BRADEMAS. Mr. Chairman, during general debate on H.R. 69, some Members expressed concern that H.R. 69 did not clearly state which definition of Orshansky is to be applied in determining the number of AFDC children counted in the title I formula.

The formula requires that two-thirds of the children from families with AFDC payments in excess of the Orshansky index of poverty for a nonfarm family of four, as updated by the Consumer Price Index, are to be counted in computing the number of eligible title I children. The bill incorporates a provision in existing law which requires that these AFDC caseload counts be made in the January preceding the fiscal year in which the information is to be used in distributing funds.

The gentleperson from New York, (Ms. HOLTZMAN) helpfully drew the attention of the House to what she felt to be an ambiguity in respect of which current year Orshansky definition was to be used in determining AFDC children.

Mr. Chairman, during a colloquy on this point, the distinguished chairman of the Education and Labor Committee (Mr. PERKINS) stated that this provision meant that AFDC children who are to be counted during fiscal year 1974 have to be determined by HEW in January 1974. Since the final Orshansky definition of poverty for calendar year 1973 will not be available until the end of March or the beginning of April 1974, the definition HEW must use in collecting AFDC data in January 1974, would have to be the 1972 Orshansky definition of poverty for a nonfarm family of four, or $4,254.

Mr. Chairman, the Deputy Assistant Secretary of Health, Education, and Welfare, Mr. Carlucci, has sent Chairman PERKINS a letter which further supports this interpretation of the law and advises Mr. PERKINS of the support of the administration for my amendment.

Therefore, with such assurances and in order to overcome any confusion regarding the appropriate definition of poverty to be used in determining the number of "AFDC Children" to be counted, I have offered this amendment. It simply makes clear that the Orshansky index to be applied against the January AFDC counts is to be the index determined for the second calendar year preceding that January. The effect of this amendment, therefore, would be to apply the 1972 definition of poverty for a nonfarm family of four, $4,254, to the January 1974 AFDC counts which will be used in determining fiscal 1975 title I appropriations.

Mr. Chairman, I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first, let me compliment my distinguished colleague from Indiana for offering the amendment. It was very clear in the debate a few weeks ago that the AFDC floor would not be increased over $4,250 for the school year commencing after July 1, 1974.

The Brademas amendment makes that point perfectly clear. We thought it should be put in this fashion so that there could not be any misinterpretation by the Department.

There was considerable debate on the floor and considerable misunderstanding and the Brademas amendment lays to rest the fear that some of our friends and colleagues from New York and from other States have.

We accept the amendment.

Mr. BRADEMAS. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I thank the gentleman. I indicate my support for the amendment. It is an effective amendment, because it requires that the administration operate in the way we expected it would, so nobody is surprised.

The gentleman from New York indicated that he must be happy, because it is an advantage to New York; but I should indicate that the current Orshansky figure is $4,275.

Ms. ABZUG. Mr. Chairman, this amendment does many things but mostly it shows the total fallacy, inconsistency

and inequity of the proposed new formula based on the Orshansky Index.

This amendment is encased in the aura of being a technical amendment, esssentially because the committee was advised that the updated Orshansky Index for fiscal year 1975 would be $4,600. As there are few, if any, AFDC families who are above the $4,600 level, the inclusion of two-thirds AFDC children over Orshansky level would be totally irrelevant.

In response, Mr. BRADEMAS suggests that we pass this amendment which will hold for only 1 year—fiscal year 1975—the Orshansky Index poverty level to its February 1973 level, $4,250, so that we can include a few, a very few of our AFDC families.

H.R. 69 with the Brademas amendment will have the same effect on all the school districts throughout the Nation. By keeping the poverty level at $4,250 for 1 year, and then instituting the updated Orshansky Index almost all school districts will show a decreased allocation between fiscal year 1975 and the following two fiscal years, 1976 and 1977. In addition 85 members represent districts whose fiscal years 1976–1977 allocations will drop below their fiscal year 1974 allocation.

It is quite clear that the only purpose of this amendment is to put off the real effect of the Orshansky formula. Consideration of this amendment obfuscates the heart of the issue. The committee simply does not have the statistics to determine exacting how Orshansky will affect our districts. And yet, they expect us to pass this legislation with a technical amendment that will give us surface information for only one of three fiscal years funding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. BRADEMAS) to the committee substitute.

The amendment to the committee substitute was agreed to.

AMENDMENT OFFERED BY MR. LANDGREBE TO THE COMMITTEE SUBSTITUTE

Mr. LANDGREBE. Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

Amendment offered by Mr. LANDGREBE to the committee substitute: Page 45, line 8, strike out "meet the special educational" and all that follows through "families and" and insert in lieu thereof the following:

improve the basic cognitive skills (particularly in reading and mathematics or reading readiness and mathematics readiness) of students who have a marked deficiency in such skills and

Mr. LANDGREBE. Mr. Chairman, this may look like a simple little change, but it is not. It is a very important change in the emphasis of the bill.

It changes the language to a concentration in the improvement of the basic cognitive skills, particularly in reading and mathematics, or reading readiness and mathematics readiness of students who have marked deficiencies in such skills.

This does two things. First, it will require an emphasis on the cognitive skills. The studies I have referred to show that the deficiencies are in reading and math. Thus, if we have Federal funding, it will be put to the best use in assisting students in developing their basic cognitive skills, which will give the student the foundation he needs to improve his education in other areas.

No. 2, it removes the idea of targeting in on schools that have a high concentration of children of low income families and changes it to students who have a marked deficiency in such skills. We can be the richest fathers in the world and have boys and girls in school who simply cannot read and cannot add.

If we are going to deal with education of the boys and girls of this country, then we have got to, at some time, start talking about the specific learning deficiencies and problems of our boys and girls.

Mr. Chairman, I am not going to talk this one to death. I hope that if there are any questions I will be able to answer them. I think this is the most important amendment we can make, providing we are going to continue Federal aid to education.

Mr. THOMPSON of New Jersey. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I might point out that beginning on page 20 and going to page 21 of the committee report, that which the gentleman speaks of is mentioned. In the case, however, of this amendment, it has the effect of saying, "Let's have the Federal Government dictate what should be taught in the local school districts."

Now, the committee's report is replete with evidence that in the title I programs on the local level, they are beginning to achieve success in disadvantaged children's educational attainment. I do not think we can well show another commitment to the disadvantaged and also settle for instantaneous success from the efforts.

The problems of the economically and socially disadvantaged are immense and take a long time to overcome. It has also taken teachers and school administrators a long time to develop the skills that deal with these children. With respect to concentrating on basic cognitive skills, most school districts are doing that now, but we should not as a matter of Federal law require that all school districts must use all of their title I aid in that one area. A particular school district may decide for particular children that it is necessary to deal with other things first, such as meeting a child's nutritional or health needs.

We must retain the present structure of title I as being based on local decisionmaking, if local officials are to have the flexibilities to meet the needs which they know better than either the gentleman from Indiana or I or any of the rest of us in the Congress.

As regards phasing out title III, the program by its nature is experimental and innovative and, therefore, not bound by traditional restraints of education. We must retain that creative edge in the program. Otherwise, they will never achieve sound changes in our educational system.

Furthermore, State and local officials are the ones who administer the title and, therefore, it is their decisionmaking the Landgrebe amendment is attacking, not Federal decisionmaking.

Under present law, 85 percent of title III funds are given to State educational agencies to administer. These agencies rely upon initiative from local school districs in proposed programs. Under H.R. 69, the remaining 15 percent of title III funds will also be turned over from the Federal Government to State agencies.

As regards the Landgrebe parents' rights amendmnet, it is unnecessary since it does not change State or local laws as regards parental rights and responsibilities.

The other amendment requiring prior written consent from parents for a child's participation in an experimental program would be cumbersome to administer on a local level, where they know more about it than we do.

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

I do not mean to interrupt the gentleman, but will the gentleman yield?

Mr. THOMPSON of New Jersey. I would be glad to yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I am just wondering about this: There are an awful lot of amendments offered to cover the ground here, but I am wondering if the gentleman is addressing himself to the particular amendment which is now before us, because I do not think this one deals with title III or parental rights. It just deals with these basic cognitive skills.

Mr. THOMPSON of New Jersey. Mr. Chairman, I will concede to the gentleman that I am talking about more than one amendment, but what I am trying to do is to put them into context. They should be considered in relation to each other.

So if the gentleman wants me to confine myself specifically to the amendment before us, what it amounts to is that the Congress of the United States would be directing and telling local school districts what they must do with this money, as distinguished from sending them the money and letting them use it in the manner which they think and know is best.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. LANDGREBE), to the committee substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LANDGREBE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee substitute was rejected.

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

Mr. Chairman, I am very much in favor of the title I funds to help those students in districts where there is the greatest educational need, for the operation of programs for handicapped children, the migrant child, for bilingual

programs, all of these programs deserve special consideration, and support. However I would also like to see included in the program, development of the gifted child. These children are our greatest natural resource; if they are encouraged to properly develop their minds they may provide the answer for our increasingly complex problems.

My own State of Texas has been particularly conscious of this natural resource and the 63d legislature set up a committee to study the education of gifted children.

Therefore, I was most pleased to note last April that the gentleman from New Jersey (Mr. DANIELS) and other Members of the House, had introduced H.R. 7100, to amend the Elementary and Secondary Education Act to provide a program for gifted and talented children. It is my understanding that there are over 2 million gifted and talented children in this country and that even the most optimistic studies conducted by the Office of Education indicate that no more than 300,000 are receiving any special education programs.

While much has been done in recent years through initiation of the Congress and the response of the Office of Education without a categorical program little more than an awareness of the problem and a realization that something has to be done presently exist. It had been my hope that H.R. 69 would have contained some version of the provisions of the gentleman from New Jersey's bill.

I would like to ask the chairman of the committee, if the provisions of H.R. 7100 were given consideration in the Committee in Education and Labor during its markup of H.R. 69, and if other consideration or action is contemplated later?

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

Mr. Chairman, I am most pleased with the interest expressed by the gentleman from Texas (Mr. PICKLE) in my efforts to obtain specific legislation directed at the problems of the gifted and talented. I would note that our failure to maximize the potential of these children is one of the great disgraces of our country. The abilities of our children, whether they be black or white, rich or poor, cannot be left undeveloped if we wish to remain a great nation. I must admit, however, that because of the myriad complex issues with which the committee had to contend in order to mark up ESEA that there was not an opportunity to consider specifically the provisions of H.R. 7100.

I would emphasize that the members of the committee in no way rejected the provisions of that bill, rather that circumstances would not permit their consideration at this time. I further hope in the near future that serious considerations will be given to this matter.

Mr. Chairman, I do want to state that the gentleman from Indiana (Mr. BRADEMAS) has been working in that direction. We will continue, and we will continue on the job, until we accomplish what the gentleman from Texas is seeking.

Mr. PICKLE. I thank the chairman.

We would be hopeful that the gentleman from Indiana can proceed in this field and that we will see some action.

Mr. BRADEMAS. Will the gentleman yield?

Mr. PICKLE. I yield to the gentleman.

Mr. BRADEMAS. I appreciate the interest of the gentleman from Texas in this matter, and certainly our subcommittee will take whatever appropriate opportunity affords itself to give attention to the gentleman's proposal.

Mr. PICKLE. I thank the gentleman.

The CHAIRMAN. Without objection, the pro forma amendment offered by the gentleman from Texas (Mr. PICKLE) will be withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. VEYSEY TO THE COMMITTEE SUBSTITUTE

Mr. VEYSEY. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. Has it been printed in the RECORD?

Mr. VEYSEY. It has been, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. VEYSEY to the committee substitute:

Page 51, line 25, strike out "141" and insert in lieu thereof "142".

Page 58, after line 18, insert:

EVALUATOR OF TITLE I PROGRAMS

SEC. 114. Title I of the Act is further amended by inserting before section 142 (as redesignated by section 110(h) of this Act) the following new section:

PROGRAM EVALUATION

SEC. 141. (a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects.

(b) The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

(c) The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

(d) The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 133(a), which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency, in the evaluation of such programs.

(e) The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on Statewide and nationwide basis.

(g) The Commissioner shall make a report to the respective Committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning his progress in carrying out this section not later than January 31, 1975, and thereafter he shall report to such Committees no later than January 31 of each calendar year the results of the evaluations of programs and projects required under this section which shall be comprehensive and detailed as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related findings and evaluations, and his recommendations with respect to legislation.

(h) The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

(i) The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of one percent of the amount authorized for such program.

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

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

There was no objection.

Mr. VEYSEY. Mr. Chairman, the amendment is a bit technical, but I think I can explain it very readily to you.

It is an amendment to guarantee that there will be evaluation of the educational effectiveness of the programs which would be funded under this legislation.

We stand here in a very perplexing position, I think, in the House of Representatives after 7 years of ESEA programs and after over $10 billion of Federal money have been expended on them. We do not know at this point which of the programs have accomplished effective improvement of education and which of them have not really succeeded at all.

Mr. Chairman, according to Federal statutes, projects funded by title I of ESEA are supposed to be evaluated at all levels of program administration—local, State, and Federal. At the very best, we have only fragmented data to justify a request to extend title I for an additional 3 years. The U.S. Office of Education has assumed the blame for the inadequate execution of the congressional mandate, citing a lack of direction in describing to the States the data and methodology required for evaluation.

It is unacceptable for this to continue. No doubt there have been highly successful programs, and we should know about

them. No doubt there have been abysmal failures. This we should know, also. The Education and Labor Committee has recognized the problem, but in my opinion, they have not gone far enough to rectify the problem. I believe my amendment will provide the Office of Education with the appropriate guidelines, so that in 1977 when we again return to the task of reviewing the authorization for ESEA, we will have adequate data to determine whether taxpayers' moneys are being spent wisely to improve the quality of education for our children.

Specifically, my amendment will require that the administrator at each level of the programs funded by title I include a statement in the request for authorization describing the goals to be achieved and the criteria by which the success of the program will be measured. In other words, we must identify concrete objectives and measure the success in attaining these objectives if we are to know whether compensatory education programs are serving to improve the quality of education for any given group of children.

My amendment will require the Commissioner of Education to develop models for the evaluation of each program and report annually to the Congress on the findings of the evaluation studies. This provision will provide the uniformity that has been lacking by providing the Congress with a better insight into the needs of compensatory education. At the same time, it will alert the Office of Education to the fact that annual evaluations can no longer be neglected. By 1977, the appropriate congressional committees will have three annual reports that will provide adequate data to justify either a renewal of the existing programs or a complete revamping of the formulas for subsidizing compensatory education.

Today, Mr. Chairman, we have to make a very difficult and embarrassing decision as to how to continue these programs absent evaluation information.

My amendment will assure as well as we can, that there will be uniform methods of evaluation of all of these programs throughout the Nation. Models will be promulgated by the U.S. Office of Education with local participation as to the criteria that would be used to evaluate these programs and the results will come back to the Congress so that 1 year from now we will begin to get information as to what we have really done and which programs have succeeded and which have failed.

I want to improve education with these funds—not just spend the money. Join me in adding this clear directive to the legislation so that we will not again have to consider renewal of title I without knowing what results we are buying.

Mr. KEMP. Will the gentleman yield?

Mr. VEYSEY. I will be glad to yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman yielding.

I want to rise in support of the amendment offered by the gentleman and I also heartily subscribe to what the gentleman is attempting to do to bring accountability to our spending programs and education legislation. I very much appreciate his leadership on this issue both when he served on the Education and Labor Committee and now that he is on Appropriations Committee.

This is an issue which is so very important to the success of education in this country. The gentleman has made a substantive effort on behalf of ESEA legislation as well as a great effort to help restore a sound fiscal policy so vital to the future of America.

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

Mr. VEYSEY. I am glad to yield to my colleague from California.

Mr. BELL. I also wish to commend the gentleman for his amendment. It is a very good amendment, and we accept it on this side.

Mr. PERKINS. Will the gentleman yield?

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

Mr. PERKINS. Mr. Chairman, I see no objection to the gentleman's amendment. As far as I am concerned, it is acceptable.

Mr. VEYSEY. I thank my colleagues for their approval and ask for the approval of the House. Let me make it clear that it is my intent that local educational agencies be consulted by the Commissioner, cooperate with the Commissioner and participate in every way to establish meaningful procedures to determine the effectiveness of the diverse programs funded under title I.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. VEYSEY) to the committee substitute.

The amendment to the committee substitute was agreed to.

AMENDMENT OFFERED BY MR. PERKINS TO THE COMMITTEE SUBSTITUTE

Mr. PERKINS. Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

Amendment offered by Mr. PERKINS to the committee substitute: On page 46 in line 3 insert after "that" the following: ", notwithstanding the provisions of section 425 of the General Education Provisions Act,"; strike in the same line the word "has" and insert in lieu thereof the word "may"; and in line 4 before "an" insert the following: "an advisory council for the entire school district and must establish".

Mr. PERKINS. Mr. Chairman, the purpose of the amendment is to clear up an ambiguity which resulted from the committee's adoption of an amendment requiring a parental advisory council at each title I school.

The ambiguity results from the fact that the Commissioner of Education is presently requiring by regulation that school districts have districtwide advisory councils under title I with substantially the same powers as the local school advisory councils required in H.R. 69.

This amendment would allow—but not require—school districts to have these districtwide advisory councils, but it would retain the requirement that they must have an advisory council in each local school.

Let me add one other point. If a school district decides under the authority given it by this amendment not to have a districtwide advisory council, then that school district cannot elect to use the option made available to it under section 171 of H.R. 69 to shift to a means other than poverty in choosing its title I schools. In order to make that shift a school district must have the approval of a districtwide advisory council.

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

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

Mr. BELL. Mr. Chairman, I would like to commend my chairman, the gentleman from Kentucky (Mr. PERKINS) on offering a very good amendment, and we accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. PERKINS) to the committee substitute.

The amendment to the committee substitute was agreed to.

AMENDMENT OFFERED BY MR. REID TO THE COMMITTEE SUBSTITUTE

Mr. REID. Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

Amendment offered by Mr. REID to the committee substitute: On page 48, line 10, strike out "85" and insert in lieu thereof "100".

Mr. REID. Mr. Chairman, my amendment insures that no local educational agency may receive fewer funds in fiscal year 1975 than it did in fiscal year 1974. The great majority would receive more. This means that all those LEA's scheduled to lose money under H.R. 69 would be brought up to fiscal 1974 funding levels.

My amendment—and I stress this—in no way changes the committee formula. Orshansky would remain. My amendment, however, would help nationally, in my judgment, over 472 counties—up to 505 in fact, I believe, which stand to lose about $50 million, and they are distributed amongst 39 States. In addition, it would help numerous local school districts which would be cut back under the H.R. 69 provisions, but whose county total may be increased, thus not showing a loss on the official printout. Specifically, States that are hurt by the present formulation, if they do not have an ample hold-harmless at 100 percent, include New York, New Jersey, and the District of Columbia. The cities are Philadelphia, Atlanta, Minneapolis, St. Paul, Cleveland, and others. And the number of counties, as I said, are over 472.

I see the distinguished gentleman from New Jersey (Mr. THOMPSON) standing. The counties in New Jersey, as he knows, that could be hurt are: Mercer, Middlesex, Ocean, Passaic, Atlantic, Camden, and Gloucester.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. REID. I would be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I thank the gentleman for yielding.

I should like to commend the gentleman for his hold-harmless amendment. The gentleman's statistics are quite accurate, and it is my judgment that the impact of the loss to over 400 districts would be much reduced and much more acceptable if the gentleman's amendment is adopted.

Mr. REID. I might point out that the gentleman from Minnesota (Mr. QUIE) has stated in the past that New York State has been getting 15 percent of the funds but that New York has only 6 percent of the children. What he has not pointed out, in my judgment, is that this 6-percent figure counts only the children in his formula which cuts out 63,000 educationally deprived children in New York State. The actual figures New York received under title I in 1974 showed that almost 13 percent of the eligible children under the old eligibility standards lived in New York. Next year New York State will get only 9 percent of the eligible funds while still having 13 percent of the educationally deprived children.

I should also like to point out that if North Carolina has been used as an example in this debate, our hold-harmless formula adds only $1.3 million for 46 counties which would have been decreased under H.R. 69; H.R. 69 itself added $300,000 for North Carolina. So in the case of that particular State, my amendment helps 46 counties.

I would point out that in Missouri there are 13 counties in one congressional district affected by this hold-harmless—and 11 more in other districts; in Illinois 7; in Indiana, Lake, Huntington, and Crawford, among others; in Iowa, Cedar, Clayton and 36 more; and Massachusetts, Dukes County; in Minnesota, Hennepin, Stevens, Martin to name a few; in Colorado, Crowley, Dolores, Kiowa, and Cuyoga.

Finally, let me just say that the cost of education is going up in this country. Title I is particularly important, especially as President Nixon defeated and vetoed early childhood and quality day care. I think it is critically important that some of the areas with the largest numbers of disadvantaged children not be penalized by this bill. It is not a question of the formula, but it is a question of equity to the Nation's children.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. REID. I yield to the gentlewoman from New York.

Ms. ABZUG. I thank the gentleman for yielding.

I commend the gentleman for making this very fair proposal to this body. I support his position.

Mr. Chairman, I rise in support of the amendment offered by my colleague from New York (Mr. REID).

This amendment will guarantee that no local educational agency will receive less money in succeeding years than it received in 1974.

Both the purpose and outcome of this amendment are clear. Should we, by adopting H.R. 69 unamended, tell some States and counties, sorry we are taking away the money you got last year and giving it to others from now on. Should we tell these school districts that they better find some other way to raise the money—maybe an increase in the property tax or cut or eliminate the programs that have managed to raise the reading level of the children in that school district. Maybe we should ask our school administrators to become Solomons and decide that they will cut the remedial math program but keep the remedial reading program.

Mr. Chairman, these are the questions that local school administrators will have to answer. And when, in the next few years it becomes clear that we have produced through our educational system many more functional illiterates, who will we blame, the administrators, the teachers, the kids themselves?

By passing the Reid amendment we can go a long way to remedy the inequities of H.R. 69. It has become a sad day when we can accurately describe a holding action as an accomplishment.

The CHAIRMAN. The time of the gentleman has expired.

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

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

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

Mr. STEIGER of Wisconsin. I thank the gentleman for yielding.

I am not quite clear on his explanation of the amendment as to whether he proposes to hold-harmless at 100 percent the school districts for the full period of extension of the Elementary and Secondary Education Act, or only for 1 year.

Mr. REID. It would be for the full pendency of the legislation that is before the body. It relates to educational agencies, and it specifically is an amendmtnt to section 108.

Mr. STEIGER of Wisconsin. So, if the gentleman will yield further, he would hold-harmless at 100 percent all school districts in the country based on the 1960 formula; is that correct?

Mr. REID. The question here is what formula we are talking about. We can talk about the 1960 census, and we can also talk about the Orshansky formula in terms of food, which is changing very drastically. My amendment does not alter the committee formula. This, in my judgment, is the most equitable and realistic way to deal with those that would be sharply penalized this year.

Mr. STEIGER of Wisconsin. If the gentleman from New York would yield further, no matter how we cut that cake, if we hold-harmless 100 percent, we are saying everybody based on the 1960 formula will get what they are getting now.

The CHAIRMAN. The time of the gentleman has expired.

Mr. REID. I thank the gentleman from Wisconsin for his contribution.

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

Mr. Chairman, we have gone through this twice before. The two Peyser amendments proposed to hold the formula harmless 100 percent so no local education agency would get less than it did in 1974. I just cannot understand, if we are interested in children, why we want to count those children who were in the school district in 1960 who are not in school any more. Every one of them is out of school, including the first grader in 1960 who has now graduated from high school.

As I said before, there have been changes in school districts. Some school districts have had a net reduction of children. Why do we pay for kids who are not there? It just is beyond me how an amendment like that could be proposed.

The formula that operates this year is inequitable, it is terrible, and so there was some reason for some stronger hold harmless provisions in the appropriation bill since the 1970 census had gone into effect and yet the formula had not been changed as we anticipated when the law was last passed in 1970.

The Reid amendment now says this is the formula we are going to operate under for the next 3 years. It says that we liked it the way we distributed it back in 1965 and 1966 based on the 1960 census information. There were some kids back then that we are still going to count. That just does not make sense. And we will keep doing that every year? That formula is already 15 years obsolete because we used the 1959 income information. It is 15 years obsolete. Each year it becomes more and more obsolete.

We have never done anything that bad before in all our efforts to pin production to a certain historical period in agricultural bills or in any other limitations we have. No; this would be the worst.

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

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I would say that in H.R. 69 the aim is to eliminate the imbalance in the title I formula under the present law which has resulted from the statistics under the census in 1960, and the way that AFDC is used. Here in this amendment we do not get away from that at all. We go back and take into consideration this old law that we have been talking about and its inequities. If we adopt the Reid amendment we would not be making any progress, we would be counting children in one section of the country under a $2,000 formula low income factor and in another section at $6,000 in AFDC payments and counting some children where we would be counting them three times as much as we are in other States, and we are just holding harmless the built-in inequities that are completely outmoded and outdated, and that would destroy the purpose of this bill. I ask the gentleman if I am correct.

Mr. QUIE. The gentleman is correct.

Also the Members realize, as I said before, that the chairman is talking about fairness rather than just a selfish in-

terest in his own district, because the chairman would get more money in his own district with this amendment, so I call on the other Members, my colleagues, to operate as fairly as our chairman is doing. That is what this is all about.

Mr. PERKINS. The inequity is such that if we have six apples and someone were to take four of them and the gentleman were to get two of them, and then we will say we are going to even everything out from this point on, that would be similar. Is that correct?

Mr. QUIE. That is correct.

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

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

Mr. STEIGER of Wisconsin. Mr. Chairman, would it be fair to say given an 85-percent hold harmless under the committee bill that this amendment would take something away from somebody else?

Mr. QUIE. Yes, it would. Everything New York would get under this would have to come from someplace else.

Mr. STEIGER of Wisconsin. If the gentleman would yield further, would this be true. In this concept of the Reid amendment that not only would we be paying for children no longer enrolled in elementary and secondary schools but also we are continuing the inequity of AFDC?

Mr. QUIE. The gentleman is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. REID) to the committee substitute.

The amendment was rejected.

AMENDMENT OFFERED BY MR. LANDGREBE TO THE COMMITTEE SUBSTITUTE

Mr. LANDGREBE. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. Has the amendment been printed in the RECORD?

Mr. LANDGREBE. It has.

The Clerk read as follows:

Amendment offered by Mr. LANDGREBE to the committee substitute: Page 28, line 9, strike out "1977" and insert in lieu thereof "1975".

Mr. LANDGREBE. Mr. Chairman, this is a very brief amendment. It would simply change the figure of the year "1977" found on page 28, line 9, to "1975," which would give this program a 1-year extension, instead of a 3-year extension.

I am going to be very repetitive and I must be, because the facts of the matter are that this Nation has spent more than $15 billion in the last 9 years on Federal programs to control education. The results as recorded in the Reader's Digest that I just referred to a few minutes ago, indicate there are 7 million schoolchildren who have severe reading problems, that is after all this money has been spent.

The SAT, scholastic aptitude tests, show dramatic evidence that for 10 straight years those tests have shown a marked reduction of 35.7 percent, an amazing 7-percent drop.

Now, this Congress has rejected my second amendment to suggest that we consider educational disadvantages, rather than poverty levels.

We refuse to look at education, but we continue to go back to formulas for distributing the money, on the basis of income levels to the parents.

I can say that a 1-year extension is enough and if the interest and the enthusiasm that has been generated by the introduction of my bill continues to snowball as it has in the last 3 or 4 months, we will be ready to make some dramatic changes in this program come 1 year from now, 1975.

I plead with the gentlemen of this Congress in all sincerity to accept this amendment and give just a 1-year extension to Federal aid to education as we are dealing with now.

I yield back the balance of my time.

Mr. BRADEMAS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Indiana.

I think, Mr. Chairman, that the same arguments can be applied to the amendment that has just been offered by the gentleman from Indiana as were offered in respect to his earlier effort to abolish the title I program.

I hope very much, therefore, that this amendment will be defeated, even as was the other.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. LANDGREBE) to the committee substitute.

The amendment to the committee substitute was rejected.

AMENDMENT OFFERED BY MR. MICHEL TO THE COMMITTEE SUBSTITUTE

Mr. MICHEL. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. Has the amendment been printed in the RECORD?

Mr. MICHEL. Yes, Mr. Chairman, it has.

The Clerk read as follows:

Amendment offered by Mr. MICHEL to the committee substitute: 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 (1) 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 32, line 19, strike out "two-thirds of".

Page 33, line 15, strike out "used by the Bureau of the Census in compiling the 1970 decennial census.", and insert in lieu thereof the following: "of families receiving an annual income of less than $3500."

Page 33, line 25, strike out the comma.

Page 34, line 1, strike out "the current criteria of poverty", and insert in lieu thereof $3500".

Page 34, beginning with line 4, strike out everything after "Act" through "index" in line 8.

Page 48, line 10, strike out "85" and insert in lieu thereof "90".

Mr. MICHEL (during the reading). Mr. Chairman, I ask unanimous consent that my amendment to the committee substitute be considered as read and printed in the RECORD.

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

There was no objection.

Mr. MICHEL. Mr. Chairman, it is essential that the Congress soon come to some resolution of the title I problem. We have been through this too many times, and each time we seem to wind up suspended, hanging in the air waiting for the next round. Sometimes, it is not so bad for Congress to be hanging in the air, because we are less likely to mess things up that way. But, at the same time we are leaving the school districts waiting, wondering, and unable to put together a decent budget, or program.

When we last went around on this a few months ago on the appropriation bill, your appropriations committee said we would not again consider title I funds until the authorizing committees developed some legislation and Congress finally makes the kinds of tough decisions that are necessary to get a new title I law.

Well, we are finally getting down to the nitty-gritty, and once again we are just about a day late and a dollar short. We are almost at the end of the automatic 1-year extension, and beyond that there is nothing—no authorization at all. The fiscal 1974 money has been allocated, the 1973 impounded funds have been released, but school districts still do not know if they have to spend it all in the next few months, or if they will be able to carry it over through the next fiscal year, or even what kind of title I programs they will have after July 1.

So, I am glad, first of all, that we have a bill on the floor—finally. And I want to commend the chairman of the House Education and Labor Committee (Mr. PERKINS) and the ranking minority member, Mr. QUIE, and the other members of that committee for bringing us a bill, because I know too well what they have gone through to develop one they could report. I remember last year on the

appropriation bill we were up to our knees in title I tables, and I am sure my colleagues on the Education and Labor Committee have been up to their armpits in them.

And, I am pleased as well, that the President is putting the pressure on us with his forward funding proposal. If the Congress can take some constructive action with this legislation, with program consolidation, we may be able, in cooperation with the administration, to give local school districts something they may find of more value than anything else we could do with or to title I—forward funding, which would allow them, finally, to more fully utilize the title I money they receive by knowing in advance what they will receive and being able to plan on those funds as a hard item in their budgets.

Now, with that said, I am going to have to say, too, that I have some real problems with H.R. 69, the committee bill. Of course, it is a practical impossibility to put together a title I formula that will please everyone, or perhaps even a majority. But, while the committee, on the face of it, appears to have done a pretty good job of putting together a formula that seems to help most and hurt as few as possible, they have incorporated some "sleepers" that are going to wind up seriously affecting a number of States over the long haul.

They have gone to the Orshansky poverty definition in lieu of a strictly low-income figure based on the census, and they propose to count only two-thirds of the AFDC children above the Orshansky level—this because they maintain that the heavy reliance of the present formula on AFDC has skewed the allocation of funds heavily in favor of the wealthier States in the country.

There is, of course, some truth in this latter contention, but moving to the Orshanksy-AFDC combination as they did will almost certainly result in skewing the allocation drastically the other way.

First, a basic flaw in the Orshansky index was pointed out by the originator of the index herself before the special Education Subcommittee. Mollie Orshansky told them this measure—

> . . . concentrates on the income-food relationship, although for urban families, particularly those handicapped not only by lack of money but by minority status and large families, the cost of housing may be critical—further analysis of the formula should be conducted before it is used as a poverty index.

Orshansky does not include such expenses as housing, transportation, medical care or taxes, which are pretty important measures of the cost of living.

A Library of Congress study also pointed this out:

> The poverty levels are not varied to the different costs of living in different parts of the United States.

The result of this lack of cost-of-living differentiation is that, relatively speaking, the Orshansky index tends to understate poverty conditions in high cost-of-living areas and overstates poverty conditions in low cost-of-living areas.

Second, the Orshansky index calls for the use of the Consumer Price Index to update income levels annually. Therefore the income levels in the Orshansky index will increase yearly with inflation. The committee formula counts only two-thirds of the children from AFDC families with incomes above the index. As the Orshansky poverty level increases yearly, the AFDC count above these levels will not increase at the same pace and consequently decline. The Orshansky index is estimated to increase about 10 percent this year. The Illinois Department of Public Aid indicates that no AFDC payments have been increased yet this year, and a 3-percent increase is tentatively budgeted for this fall.

Since 21 percent—or $18,122,680—of the Illinois title I LEA allocation is based upon the AFDC count of eligibles, the State would start to lose dollars the first year the Orshansky index is updated by the Consumer Price Index. Twenty-five percent—or $13,216,744—of the Cook County allocation is based on the count of AFDC eligibles. Sixteen percent of the 18th Congressional District's LEA allocation is based on the AFDC count of eligibles—19 percent of Peoria's allocation.

Now, the problem is, if you do not go with the committee, where do you go?

Several Members, including myself, have tried to develop alternatives to what the committee has done. My friend and colleague from New York (Mr. PEYSER) has developed some fixed-formula proposals which attempt to deal with these problems, but his 100-percent hold-harmless provisions tend to negate the whole objective of devising a new formula.

Mr. O'HARA has a formula based on two-thirds school-aged population and one-third committee formula. This tends to put the money where the kids are, but leaves some large metropolitan areas such as Chicago, Los Angeles, and Detroit, among others, on the short end.

A further problem with the formula of the gentleman from Michigan is that it has been equated with general aid, largely because of the gentleman's views that the title I programs should be directed toward the needs of all children who are having learning difficulties without regard to the income of the child's family—a view that has some real merit.

In that vein, I would just point out that H.R. 69 does have a provision allowing local school districts the option of using criteria other than poverty as a basis for distributing title I funds among schools.

The amendment I had been exploring would use a two-thirds/one-third formula mechanism without going so far as to adopt a general-aid approach, although it would not change the local-option provision in the committee bill either.

It would change only the formula on which title I funds are distributed by basing two-thirds of the allocation on the school-aged population in local school districts, and one-third on the number of children from families with incomes below $3,500 plus the number of AFDC children above $3,500. The thrust and purpose of H.R. 69 would remain unaltered, but the metropolitan areas which came down under Mr. O'HARA's formula would be brought back up, and the problem of AFDC attrition would be eliminated.

In view of the lopsided votes on the O'Hara and Peyser amendments, I have no illusion that my amendment would fare any better so I shall not put it to a vote, but did want to have my position made clear by way of these remarks.

The CHAIRMAN. The question is on the amendment to the committee substitute offered by the gentleman from Illinois (Mr. MICHEL).

The amendment to the committee substitute was rejected.

AMENDMENT OFFERED BY MR. TREEN TO THE COMMITTEE SUBSTITUTE

Mr. TREEN. Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

> Amendment offered by Mr. TREEN to the Committee substitute: Page 28, line 9, strike out "1977" and insert in lieu thereof "1976".
>
> Page 50, line 25, insert "(1)" immediately after "(d)".
>
> Page 51, immediately after line 2, insert the following new paragraph:
>
> (2) Section 144(a)(1) (as redesignated by section 109 of this Act) of title I of the Act is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated to carry out this title, not to exceed $500,000,000 for the fiscal year ending June 30, 1976."

Mr. SYMMS. Mr. Chairman, I make a point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred and two Members are present, a quorum.

Mr. TREEN. Mr. Chairman, members of the Committee, the substance of my proposal is printed in the RECORD today on page 8060, and there is a chart on that page which indicates what my proposal would do with regard to funding.

My proposal is in two parts, only one of which could be effected here. First of all, let me explain why I am making this proposal.

It has been said by one of the Members here that this is not the time to debate whether or not the Federal Government should be involved in education. I disagree with that. I think now is the time that we should debate the basic question of whether the Federal Government should continue to be involved in education.

I think that the monumental problems that have been demonstrated by the rash of amendments that we have to H.R. 69; by the continuing controversy we have had over the years on the level of appropriations, on the formula for spending, and many other controversies that we are going to have on H.R. 69 before we get to a final vote, demonstrate that we ought to look at the question of whether or not this Congress should be involved in elementary and secondary education.

Mr. Chairman, I think the time has come to extricate ourselves from this mailaise by returning responsibility for elementary and secondary education to the States and to the local authorities.

Mr. Chairman, I propose to do this in two steps. My amendment, which was read by the Clerk, will have the effect of putting on a ceiling of $500 million for title I programs for the fiscal year 1976. It does not affect the year that we are in, fiscal year 1974, and it does not affect the year beginning July 1, 1974, because as we all recognize, school districts and local school authorities, and the States, are anticipating that they will receive funding somewhat on the order of $1.8 billion under title I programs for the coming year. So I propose that we put this ceiling of $500 million on for fiscal year 1976.

My amendment also phases out title I programs on June 30, 1976.

The second part of the proposal, which is not part of this amendment because it would not be germane, is to repeal the Federal tax on cigars and cigarettes and other tobacco products and permit the States to pick up that revenue directly. I like to call this "revenue source returning." I think it is better than revenue sharing.

The amount of money that is collected by the Federal Government by way of taxes on cigars, cigarettes, and other tobacco products is approximately $2.3 billion per year. So if any of the Members are interested in the chart, they may refer to page 8060 of yesterday's RECORD and they will see how much each State would receive by way of these taxes; the idea being that the State itself would increase its tobacco tax—and, as I understand it, every State has a tobacco tax—to the level necessary to take up the Federal tax. That $2.3 billion is shown in the chart as being distributed to the various States.

I might say that that source of revenue alone would bring every State and the District of Columbia more money with the exception of seven States. My State is one of those that would receive less money.

Mr. Chairman, as I say, that proposal, of course, is not a part of this amendment. The repeal of that tax could not be part of this bill, because it would not be germane. I have introduced that bill today with several cosponsors.

However, the part of the proposal that is germane and that is in the amendment is the ceiling of $500 million for fiscal year 1976. That is divided according to the formula in the committee bill, and is shown in the third column in the chart. When that is added up, every State except three will receive more funds than they would under the committee bill. One of the three States not receiving as much is the State of Louisiana, my own State. The other two are Mississippi and Kentucky, unfortunately, I might say for the benefit of the chairman of the committee who is from Kentucky.

However, let me point out just a few of the advantages, as I see it, of this proposal. In addition to the fact that it is going to provide considerably greater amounts of money for 47 States, it will give the States and the local school authorities more flexibility in educational programs. It will automatically solve the forward funding problem which we have been talking about and which the President has been talking about.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TREEN) has expired.

(On request of Mr. ARMSTRONG, and by unanimous consent, Mr. TREEN was allowed to proceed for 2 additional minutes.)

Mr. TREEN. Mr. Chairman, let me just finish these other points quickly.

It is estimated that States and local school authorities spend $300 million in administrative costs because of the title I requirements of the ESEA. That will be saved by my proposal. We will also eliminate $10 million in Federal administrative costs through this plan.

In addition, we will relieve Congress of one of its most perplexing burdens—and one which is the source of much acrimony. Furthermore, local school boards will not have to come up here, as they have come year after year, on bended knee, saying "How much money are we going to get?"

If we adopt this plan, we as individual Congressmen would have a good deal more time to devote to other things that are absolutely vital.

This proposal would constitute a reaffirmation of our belief in the Jeffersonian principle that government closest to home is the best government.

We talk on this floor day in and day out about Congress having delegated too much power to the Executive, and we feel that we ought to retain certain powers ourselves. The plain fact of the matter and the crux of the problem is that we have too much concentration on the Federal level, either in the Congress or the Executive, in certain areas. Education is something that can be handled better on the State and the local level.

Mr. Chairman, I will say in conclusion that by adopting this proposal we would be making a simple and dramatic expression of our faith in our State and local school jurisdictions to educate children on the elementary and secondary level.

Mr. ARMSTRONG. Will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Chairman, I rise in support of the gentleman's amendment and to commend the statesmanship that he brings to the consideration of this issue.

Mr. TREEN's amendment will have far-reaching and beneficial consequences:

First. It will eliminate the uncertainty of existing programs. I am sure Members are well aware of the problem faced by State governments and local districts which try to make budgets based on funds which they cannot be sure of receiving from the Federal Government. In many cases, school boards are forced to staff up on the assumption of Federal funds and then lay off personnel or cut back programs if funds are not forthcoming. This is simply because the appropriations are enacted and funds distributed too late for proper planning by the schools.

Under our proposed amendment, the money would stay within the State in the first place for budgeting in a more timely fashion.

Second. This proposal restores local control in another significant way.

It is clear many programs have been started by local districts primarily in order to qualify for Federal funds even when other needs of the district are more important in the opinion of local policymakers. By keeping the funds, and the control, closer to home, decisionmaking will be decentralized and people at the local level will be in a better position to set their own priorities.

Third. Substantial administrative savings can be realized. Clearly the overhead costs of preparing applications and accounting for Federal programs under title 1 are very high—for the Federal Government—for State departments of education and, most significantly, for local districts where the administrative costs appear to be very high in proportion to the total benefits of the district programs.

In addition, some savings can be realized in the collection of the Federal tobacco tax which would be phased out. Presumably there will be no corresponding increase in the cost of local collection since that effort already exists and a higher tax rate will add little or nothing to the collection costs.

Fourth. This amendment will put more money into education. I assume that all States will enact an increase in the tobacco tax to take effect on the same date as termination of the Federal tax. So approximately $2.2 billion will be made available for education, compared to $1.6 billion in fiscal 1974 and $1.8 billion in 1974–75 by H.R. 69.

This increase, together with the administrative and overhead savings, can make possible significant increases in educational programs throughout the country.

In conclusion, Mr. Chairman, I would like to compare the concept of this amendment with revenue sharing. I am strongly in favor of revenue sharing as a means to decentralize control and make available the resources by which States and local jurisdictions can solve problems as defined by their own priorities. But I note that revenue sharing has one significant drawback:

Revenue sharing is subject to the appropriation of Congress. And despite its evident success to date, rumors are already circulating that the general revenue sharing program will not be continued when it expires. Apparently, many Members of Congress are loathe to let go of the power which revenue sharing transfers back to the local level.

Revenue sharing is therefore, by its very nature, uncertain.

What our proposed amendment seeks to do is to transfer permanently a portion of the tax base and to do so in a way that will not require further action by Congress after its enactment. I have great faith in the ability of States and local jurisdictions to solve problems and to plan wisely for the future. I am confident that local officials will make good decisions—not necessarily the same de-

cisions Congress might make—and that local officials, being closer to the problems, their constituents, the schools, teachers, and, most important, the needs of schoolchildren, are in a better position to set priorities for use of educational moneys. I believe this amendment proposes an important opportunity to decentralize decisionmaking in an area of utmost concern.

In summary, this amendment offers an opportunity to eliminate the uncertainty of existing programs, restore local decisionmaking and priorities, save substantial overhead costs, and make increased funds available for education.

I commend the gentleman from Louisiana for presenting this amendment.

Mr. SANDMAN. Will the gentleman yield?

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

Mr. SANDMAN. I am very happy to join in the remarks made by the gentleman from Louisiana.

A couple of years ago I proposed that the Federal Government repeal all of the excise taxes except those where the funds remain in trust funds and to use that as a real revenue sharing source fund. I think the only way for us to carry out the promise that we are going to give the government back to the States is this. I am very happy the gentleman advanced this program.

Mr. TREEN. One final point. If the Chairman and the Members from the State of New York would look at the proposal, they will note that there is $56 million more in my plan than under the committee plan, and $7 million more for Pennsylvania, and $38 million more for Massachusetts, and $20 million more for Connecticut. And there is $1.5 million less for my own State of Louisiana.

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

Mr. Chairman, I will not take the 5 minutes but will only take 1 minute.

The gentleman from Louisiana is well-intentioned and certainly has raised some questions that maybe should be resolved in other committees, but I think he is completely off base insofar as phasing out title I is concerned.

The real debate is taking place here today because of the underfunding of title I. If title I had been fully funded, the low-income factor of $4,000 would have been in effect in 1970, so we would not have had all of this debate on AFDC.

From throughout this Nation the best educators have come before the committee and stated that assistance received from the title I school program, which has helped the disadvantaged primarily in the inner cities and poor rural areas, has held their school systems together, and the fact is that but for that assistance entire systems in many instances would have disintegrated. So title I has well proved itself in serving the disadvantaged in the best way known.

The only real problem, from the great number of studies we have already conducted, is the fact that title I is now underfunded.

I hope that the amendment offered by the gentleman will be defeated.

Mr. TREEN. Will the chairman yield to me for one question?

Mr. PERKINS. Yes; I yield to the gentleman.

Mr. TREEN. The chairman understands under this proposal—and I recognize the fact that it can only be implemented if the Federal excise tax is repealed, and, of course, there is plenty of time before fiscal year 1976 begins to see that it would happen, but the chairman understands that if this entire proposal is carried out, you will have an increase in funding for all of these school districts in all of these States save yours and mine and that the saving in administrative costs will more than make up for that in our States. The amendment I am proposing would provide a greater amount of funding than the chairman does in his bill.

Mr. PERKINS. I will say that an amendment that is so broad in substance should have thorough consideration in the Ways and Means Committee and in our committee, and we should not undertake to legislate here on the floor. But we know we will be doing harm to the disadvantaged in phasing title I out in 2 years.

Mr. QUIE. Will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. I join with Chairman PERKINS.

If that were so, then there would be some protection for education, but to just go now to the tobacco patch and encourage people to smoke more so we can educate them better, I just do not think that that would be very fitting for this legislation, so I hope the amendment is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN) to the committee substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TREEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the committee substitute was rejected.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read.

AMENDMENT OFFERED BY MR. ESCH TO THE COMMITTEE SUBSTITUTE

Mr. ESCH. Mr. Chairman, I offer an amendment to the committee substitute.

The CHAIRMAN. Has the amendment been printed in the CONGRESSIONAL RECORD?

Mr. ESCH. Mr. Chairman, it is an amendment that comes at the conclusion of title I, following the period in title I. So I rose at this particular time to offer it.

PARLIAMENTARY INQUIRY

Mr. QUIE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. QUIE. Mr. Chairman, my parliamentary inquiry is this: In the event this amendment is read, and we begin considering the amendment, would then title I be completed, and there would be no way that anyone can go back to title I and offer an amendment, even though printed in the RECORD?

The CHAIRMAN (Mr. PRICE of Illinois). The Chair will answer the inquiry of the gentleman from Minnesota by saying that further amendment to title I would be precluded only if the amendment is agreed to.

The Clerk will report the amendment, and the committee will find out what the amendment is.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. STEIGER of Wisconsin. Mr. Chairman, my parliamentary inquiry is to inquire whether or not if the amendment is read, is a point of order eligible to be lodged against the amendment?

The CHAIRMAN (Mr. PRICE of Illinois). The Chair will state that a point of order certainly could be raised, and argued at the proper time, following the reading of the amendment.

PARLIAMENTARY INQUIRIES

Mr. PERKINS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. PERKINS. Mr. Chairman, I would like to know if there are any further amendments at the Clerk's desk to title I, and whether or not we have completed amending title I?

The CHAIRMAN (Mr. PRICE of Illinois). The Chair will state in response to the inquiry of the gentleman from Kentucky that the Chair has asked that question, and evidently the only Member seeking to offer an amendment was the gentleman from Michigan (Mr. ESCH) who, apparently, is offering an amendment after title I, and is inserting a new title to follow title I.

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

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. PERKINS. Mr. Chairman, my parliamentary inquiry is this: This will preclude any further amendments to title I after the gentleman from Michigan (Mr. ESCH) offers his amendment to title II, is that correct?

The CHAIRMAN (Mr. PRICE of Illinois). The Chair will state that if the amendment offered by the gentleman from Michigan (Mr. ESCH) is considered and agreed to, its adoption would preclude further amendment to title I.

Mr. PERKINS. Does the Chairman mean it would require unanimous consent?

The CHAIRMAN. If the amendment is defeated then further amendments to title I would be in order, if otherwise in order under House Resolution 963.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ESCH to the committee substitute amendment: Page 58, after line 18, insert a new Title II (and number the succeeding Titles and Sections accordingly:)

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—POLICY AND PURPOSE

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual schools solely on the basis of race, color, sex, thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established, a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitutions of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

PART B—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part D of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency of providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instruction programs.

BALANCE NOT REQUIRED

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 206. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

PART C—ENFORCEMENT

CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this title may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

JURISDICTION BY THE ATTORNEY GENERAL

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of Part B of this title; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate action.

ATTORNEYS' FEES

SEC. 212. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

PART C—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 215 and 216 of this title.

TRANSPORTATION OF STUDENTS

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify

or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this title prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 218. On the application of an educational agency, court orders, or desegregation plans under title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this title and intended to end segregation of students on the basis of race, color, or national origin, shall be reopened and modified to comply with the provisions of this title. The Attorney General shall assist such educational agency in such reopening proceedings and modifications.

LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, be terminated if the court finds the defendant educational agency is not effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found to be effectively excluding any person from any school because of race, color, or national origin, and this shall be so, whether or not the schools of such agency were in the past segregated de jure or de facto.

SEC. 220. Any court order requiring the desegregation of a school system shall be terminated, if the court finds the schools of the defendant educational agency are a unitary school system, one within which no person is to be effectively excluded from any school because of race, color, or national origin, and this shall be so, whether or not such school system was in the past segregated de jure or de facto. No additional order shall be entered against such agency for such purpose unless the schools of such agency are no longer a unitary school system.

PART E—DEFINITIONS

SEC. 221. For the purposes of this title—

(a) The term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801 (k) of the Elementary and Secondary Education Act of 1965.

(b) The term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) The term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term "desegregation" means desegregation as defined by section 401(b) of the Civil Rights Act of 1964.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

PART F—MISCELLANEOUS PROVISIONS

SEC. 222. Section 709(a)(3) of the Emergency School Aid Act is hereby repealed.

SEPARABILITY OF PROVISIONS

SEC. 223. If any provision of this title or of any amendment made by this title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this title and of the amendments made by this title and the application of such provision to other persons or circumstances shall not be affected.

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

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

Mr. MEEDS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Washington (Mr. MEEDS) reserves a point of order against the amendment.

Is there objection to the request of the gentleman from Michigan (Mr. ESCH) that further reading of the amendment be dispensed with, and that it be printed in the RECORD?

Mr. QUIE. Mr. Chairman, reserving the right to object, I do so for the purpose of making a parliamentary inquiry.

The CHAIRMAN. The gentleman from Minnesota reserves the right to object so that he may make a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. QUIE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. QUIE. Mr. Chairman, my parliamentary inquiry is this: Will the rules that applied to title I apply to this amendment as well, that there can be only one speaker on each side? Or will we go back to the regular rules of the House, where pro forma amendments can be offered to amendments so that the Members can have 5 minutes each, for as long as they wish to do so?

The CHAIRMAN (Mr. PRICE of Illinois). The restrictions of the rule adopted by the House on March 12 would not apply to this amendment.

Mr. QUIE. Mr. Chairman, I withdraw my reservation of objection.

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

Mr. STEIGER of Wisconsin. Further reserving the right to object, Mr. Chairman, may I have the Clerk re-report the first portion of the amendment? Mr. Chairman, I am trying to seek permission to have the Clerk re-report the first portion of the amendment.

Mr. ESCH. I would object, Mr. Chairman. I want to proceed with the reading of the amendment and get on with the point of order.

The CHAIRMAN. The Clerk will read.

The Clerk reread that portion of the amendment referred to.

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

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

There was no objection.

Mr. MEEDS. Mr. Chairman, I reserve a point of order against the amendment.

Mr. BAUMAN. Mr. Chairman, I make a point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and eleven Members are present, a quorum.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Michigan yield for a parliamentary inquiry?

Mr. ESCH. I yield, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. STEIGER of Wisconsin. Do I understand the Chair allowed the gentleman to reserve a point of order without a unanimous-consent request?

The CHAIRMAN (Mr. PRICE of Illinois). That is not required to reserve a point of order. Any Member may reserve a point of order.

Mr. ESCH. Mr. Chairman, I rise in order to present an amendment which is substantially the same as a bill which passed the House of Representatives on August 17, 1972, by a vote of 282 to 102.

It has been printed in the RECORD for the benefit of the Members on March 14 on page 6877 and there are copies available at both of the desks for the information of the Members.

I rise in presenting this amendment on behalf not only of myself but also the gentleman from Michigan (Mr. HUBER) and the gentlemen from Michigan and members of the committee, Mr. WILLIAM FORD and Mr. JAMES O'HARA, and also many other Members from Michigan who have been very active in support of amendments of this type, such as Congressmen NEDZI, DINGELL, BROOMFIELD, and others.

The purpose of the amendment is to clearly indicate that the intent of the House of Representatives is to disapprove cross-district busing such as that which has created a great deal of unrest and uncertainty in the minds of those in the Greater Detroit area. The purpose clearly, when the act was passed by this House overwhelmingly in August of 1972, was to suggest that, while we recognize that every child should have an opportunity to be fully educated, the House went on record as emphasizing that the education should be done insofar as possible in a neighborhood school and emphasized the concept of family involvement which can only be exercised in a

neighborhood school. The emphasis is upon the fact that the school which is closest to the neighborhood can provide the best educational opportunity because the family could have close proximity to the educational process itself.

As a result, what we have before us today is an amendment that has been very carefully drawn to resolve the issue of constitutionality involved in the proposition that every child should be educated to his fullest extent possible that child should also be educated in a neighborhood school. So the amendment which we offer today, although some may suggest that it may be negative in nature, is really affirmative because it would clarify the intent of this Congress to reemphasize education in neighborhood schools and to define as well both denials of equal educational opportunities and remedies available to overcome such denials.

Moreover, there quite frankly is no real evidence to suggest that busing has improved educational opportunity. There is some evidence to the contrary. Instead of promoting race relations in some cases it has resulted in more bitterness and polarization.

Those who favor busing do so on the false theoretical assumption that the schools can make up for our failures at home. What we ought to recognize is that the family is the critical factor in educational achievement and no amount of busing or remedial education can resolve the problems of the family.

For years the people of Michigan have been virtually unanimous in their opposition to busing on the basis of race and they have been living under the threat of a Federal judge's order which would enforce busing across the boundary lines of 53 school districts in the Metropolitan Detroit area.

The gentleman from Michigan (Mr. BROOMFIELD) went a long way to reach out and strive to solve the problem in a previous year, but this amendment specifically we believe is drafted to take care of the constitutional problem and yet reinforce the fact that the neighborhood schools are the best place to educate our children.

So I ask the Members to support this amendment. I think that the people in the inner city of Detroit as well as in the suburbs and in the inner cities and suburbs throughout the country are tired of this threat of cross-country busing and they, like many Americans, both black and white, are tired of having their children used in a poorly thought out social experimentation. I do not blame them and I urge the Congress to adopt this amendment.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Michigan (Mr. O'HARA).

Mr. O'HARA. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. ESCH). I commend him for offering the amendment. I thank my distinguished colleague from Michigan for yielding to me, and I appreciate this opportunity to make a few brief remarks in regard to my own position on this issue.

I have supported on this floor, in my work on the Committee on Education and Labor, and in my public life, the proposition that no American can legitimately be denied access to any public facility, any employment or educational opportunity, or to any other right or privilege because of his race, his religion, or his origins—and I have always supported what seems to me to be the inevitable and inescapable consequence of that belief—that no person can be provided such access, such opportunity, such rights or privileges because of his race, his creed, or his origins.

Those principles, which seem to me to be as inseparable as the two sides of a coin, lie at the heart of our constitutional system, and they are close to the center of my own political philosophy. "Equal rights for every human being—special privilege for no one." This is the standard to which I must repair in the last analysis, regardless of the popularity of that stand at a given moment.

Racially selective school assignment—whether it involves busing or some other device—is in my view wholly violative of that principle. If we can say to one child, "Go here to school," and say to another child, "Go there to school," and if the means we use to decide is the color of either child's skin, then we are practicing racism in its worst form, whatever term we use to describe it.

Racially selective schoolbusing was wrong when it was used to perpetuate dual school systems. Racially selective schoolbusing is wrong when it is used in the name of "desegregation" with the goal of meeting racial quotas in given schools or school districts. There is no fundamental difference in the two techniques, and if the foes of one have become the advocates of the other, then I have to part company with them. I was against the schoolbus when it bused black or white kids across town in one direction, and I will be against the schoolbus when it buses black or white kids across town in another direction.

I support, enthusiastically, the amendment of the gentleman from Michigan, the amendment which embodies legislation this House has already passed on another occasion—because I believe it is based on the principles I have just outlined.

This amendment, and my support of it, are based on the proposition that the laws of this country must not confer either penalty or favor upon an American because of his color, and, indeed, must not even take cognizance of that color.

We cannot, then, in my judgment assign young people to school on the basis of their race without violating the Constitution, even when we seek to justify that kind of assignment as a technique for achieving results we believe are consistent with Constitutional principles. The Constitution, Mr. Chairman, does not embody goals. It does not visualize objectives. It does not legitimate quotas. It consists of processes, of procedures, of limitations on what Government can do even to achieve what people think is good.

And one of those limitations, I believe is the one this amendment will seek to strengthen and protect—the limitation that forbids the provision of access to the schools on the basis of race.

Mr. Chairman, once again, I stand here to cast my vote against the busing of schoolchildren. I am surprised that it even requires a vote to put a stop to this clearly unconstitutional and essentially racist practice. I look forward to the day when we can see the last of these experiments, and get back to our business as one people.

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

Mr. ESCH. I yield to the gentleman from Michigan (Mr. HUBER).

Mr. HUBER. Mr. Chairman, I would like to associate myself with the gentleman from Michigan. He has very aptly presented our position. I am delighted to support his amendment.

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

Mr. ESCH. Mr. Chairman, I yield to the gentleman from Michigan (Mr. FORD).

Mr. FORD. Mr. Chairman, I commend the gentleman for his hard work in representing the Michigan delegation as well as he has in the preparation of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman from Michigan (Mr. ESCH). This amendment provides that it is the policy of the United States that all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin, and that the neighborhood is the appropriate basis for determining public school assignments.

The provisions of this amendment are consistent with my long-standing belief in the proposition that no American should be given or denied access to any public facility, any employment or educational opportunity, or any other right or privilege based upon his or her race, religion, or national origin.

Mr. Chairman, I have always deplored racial discrimination. I have always opposed the maintenance of dual school systems in which students are assigned to schools on the basis of their race or color. The amendment we now have before us would prohibit these types of school systems and it would prohibit the assignment of students to a school based on race, color, sex, or national origin.

This amendment is a response to the theory that court-ordered busing of students assigned to specific schools on the basis of the color of their skin will somehow achieve the goal of creating a color-blind educational system in which every student would have an equal educational opportunity. This amendment endorses the principle that every student is entitled to an equal educational opportunity, and it prohibits using the color of a student's skin as a factor to be considered in making a school assignment. Instead it provides that all students should have the same equal right to attend the local school within their own neighborhood—regardless of the color of their skin.

Mr. Chairman, a generation ago, when school districts in various parts of the country were assigning children to schools on the basis of their race—and in many cases using buses to make sure that those children were delivered to the schools to which they were assigned on the basis of their race—we called it segregation and we fought it.

Mr. Chairman, we were right then, and we are right now.

The struggle for equality of access to public institutions, to schools and jobs and housing in this country has been a struggle to remove the color of a person's skin from the things that we consider when a person seeks to be admitted to a school, to obtain a job, purchase a home, or to exercise his or her right to vote.

For years we have been urged to judge a person by his or her character, not by the color of his or her skin.

Now we are being urged by some who profess to espouse the cause of equality, that we should reassert the primary consideration of these distinctions and that we should assure ourselves that each group is properly represented in every social undertaking.

Mr. Chairman, whenever the law, for whatever alleged motive, takes cognizance of a person's color, race, religion, or national origin, and confers a benefit or an injury on that person, the law is a denial of the idea of human equality, and in my judgment, is a violation of the Constitution.

I cannot support the concept of forced cross-district school busing of our children simply because I do not believe it will move us any closer toward the color-blind society which our Constitution mandates. But even if it could, I could not support cross-district busing and the assignment of pupils on the basis of their race—because it is wrong to use a color-conscious device to right a color-conscious wrong.

I urge my colleagues from both sides of the aisle to support this amendment, and register your opposition to the forced busing of our school children.

Mr. ESCH. Mr. Chairman, I appreciate the gentleman's untiring efforts throughout the years in support of this amendment.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. ESCH. Mr. Chairman, I yield to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I also commend the gentleman for his amendment and rise today as a co-sponsor of the amendment offered to H.R. 69 by my distinguished colleague from Michigan (Mr. ESCH.).

For more than 5 years we have lived under the threat of massive forced busing between Detroit and the surrounding suburbs—the result of an absurd and totally unrealistic Federal district court ruling now under appeal.

It was my pleasure in 1971 to sponsor the Broomfield amendment which was enacted by Congress and signed into law. This measure prohibits cross-district busing until all court appeals have been exhausted and in my judgment, has prevented such busing in the Detroit area and throughout the country.

But the threat that forced, cross-district busing could be ordered at some future time remains. This amendment would go a long way toward removing that possibility.

Mr. Chairman, I always have felt that our primary goal must be to help local school districts provide the highest possible quality education.

Cross-district busing does nothing to help us achieve that goal. Studies have shown that forced busing has failed to produce any positive results in the academic achievement of the children involved. Educational experts who have studied the information available have reached one basic conclusion: That busing has no positive effect on the academic achievement of either black or white children. What busing has done, though, is create a state of confusion in many of our Nation's school districts. It has made innocent children the victims of the ignorance of the courts by transporting them miles from their neighborhood schools for reasons they cannot understand. It has disrupted their lives to the point that their education suffers in many cases. Supreme Court Justice Lewis Powell has called busing "the single most disruptive element in education today." I could not agree more. A recent Gallup poll survey shows that an overwhelming majority of the American people agree with Justice Powell, also. Conducted last September, it indicates that 95 percent of the American public oppose forced busing.

Perhaps a basic reason for this overwhelming figure is that forced busing denies Americans the right to control the education of their children. People who work in a community and pay school taxes to support the community's school system are suddenly told by a judge that their children will be bused to another district. It is not hard to imagine why the vast majority of Americans reject this program. What is hard to imagine is why some lower courts adopted such a principle in the first place.

Besides denying parents the right to make their own decision about where their child will attend school, forced busing violates the intent of the 1964 Civil Rights Act. That act states quite clearly that it does not empower any official or court of law to issue any order requiring transportation of children from one school to another or one school district to another to achieve racial balance. Unfortunately, the courts have chosen to subvert or ignore the law.

The amendment before us today offers rational alternatives to busing as a way of achieving educational equality. It provides that no program of busing shall be implemented unless various alternatives have been tried and proven ineffective in achieving the desired results. Should the alternatives fail, no student may be bused farther than the next closest school to his home. The alternatives are as follows:

Assigning students to the schools closest to their homes, taking into account school capacities and natural physical barriers.

Assigning students to the schools closest to their homes, considering only school capacities.

Permitting students to transfer from a majority to a minority student concentration of their race, color, or national origin.

The creation or revision of attendance zones or grade structures if it does not require transportation of a student beyond the school next closest to his home.

The construction of new schools.

The closing of inferior schools.

Any other plan which is educationally sound and administratively feasible which does not require transportation beyond the next closest school or assignments across district lines, unless the lines were drawn for the purpose of segregation.

In addition, the amendment strikes at the heart of the problem by prohibiting practices which deny equal educational opportunities. These include deliberate segregation and failure to take action to eliminate it, discrimination in hiring and assigning of faculty by school districts, and transfer of students to increase segregation.

This amendment attempts to deal with the equal education problem on a more rational basis than merely filling up buses and sending them across school district lines. Those who feel massive cross-district busing is a panacea for the problem have failed to look closely at the existing problem.

It is time for Congress to look at the facts and act on this problem with a degree of sanity missing from some of the courts in the country. I urge the House to do just that by voting favorably on this amendment today.

Mr. BRAY. Mr. Chairman, will the gentleman yield.

Mr. ESCH. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. BRAY. Mr. Chairman, I congratulate the gentleman in his efforts on this amendment.

Mr. Chairman, once again, the House of Representatives has an opportunity to express its opposition to busing for the purposes of achieving racial balance. The amendment is identical to antibusing legislation which passed the House on August 17, 1972, by 282 to 102. However, it failed in the Senate. The yea votes for the amendment at that time showed a definite bipartisan stand. This busing issue crosses party lines; it is not a political issue at all but one which, I dare say, has become the most controversial and hotly debated (and hotly opposed) matter the country has seen for some years.

Earlier this year, the House Committee on Education and Labor by a vote of 18 to 6, voted against adding these provisions to the school aid bill, now before us. However, this does not mean that there is any decline in antibusing sentiment as far as the Congress is concerned. The 1972 vote shows that; I am confident today's vote will show it also.

In essence, these are the provisions of the amendment, similar to those in 1972:

First, it would ban busing of students in all grades beyond the "next closest" school;

Second, old desegregation cases that had ordered busing for racial balance would be reopened, to reduce their busing requirements;

Third, busing from one school district to another would be flatly banned.

Opponents of this amendment will probably bring out the old charge that the issue is really racist. Nothing could be further from the truth. If that argument is to be refuted, let me turn to two remarks from two gentlemen, prominent in public life, who in no sense of the word could be remotely called "racist" in outlook: Mr. Julius Hobson, one of Washington, D.C.'s leading black "militants"—I do not know if Mr. Hobson prefers that term, but it is one often used to describe him; at any rate, he says what he thinks, openly and honestly—and Mr. John Gardner, former Secretary of Health, Education, and Welfare and now head of Common Cause. These remarks were quoted in the February 20, 1974, CONGRESSIONAL RECORD by the distinguished gentlewoman from Oregon (Mrs. GREEN); they are pertinent here: I quote from them:

Mr. HOBSON. Of course—integration is a complete failure . . . I think it's time we tried to make the schools good where they are . . . the integration kick is a dead issue.

Mr. GARDNER. We should proceed to upgrade the schools where they are now and not sit around waiting for integration that may never happen.

Pending in the House is a discharge petition on House Joint Resolution 771, a constitutional amendment designed to prevent the forced busing of students for racial balance. I have cosponsored similar legislation, and also signed the discharge petition, which, again, is supported by Members of both parties. It is worth noting, too, that the Supreme Court has heard arguments on whether the courts can cross political boundaries and order racial busing. This is the "Detroit case," but it applies to several Northern metropolitan school districts, including Indianapolis, of which I represent a substantial part. The Court will not hand down its decision for some weeks yet. There is speculation that the original rulings in favor of the Detroit case may be overturned, but of course no one can nor should predict this. If the Court does not, then I can predict with accuracy that this will give added thrust to the antibusing amendment now pending in the House.

There is the matter of the cost to school districts who must comply with these busing orders, and they are already strapped for funds. Mrs. GREEN had some observations in her remarks on the date cited. For instance, in Charlotte, N.C., the local and State Government are having to put up around $1.6 million annually to operate buses, compared with $784,000 3 years ago; this is against a drop in school population of 7,000 over the same period.

In Jacksonville, Fla., 52,000 pupils out of 109,700 are riding on 428 buses. Jacksonville pays over $3 million a year to fund this, which is three times the cost 3 years previously.

In Pontiac, Mich., the 1973 busing cost was $507,000. But the real bite was made in Los Angeles. The State Supreme Court of California ordered widespread desegregation of schools, which meant busing. For the first year, according to school officials, it meant $42 million initial outlay for the buses and drivers, and for subsequent years, $20 to $25 million, per year. This was, of course, money taken away from programs and attempts to improve the quality of education.

Let us look at Indianapolis. The plan ordered by the Federal District Court there would shuffle around 20,000 Indianapolis students, about half of them to suburban areas as far away as Plainsfield, Mooresville, Brownsburg, and Carmel—all many miles outside the city itself, at a cost of many millions.

In addition—and this is worst of all—a total of 29 elementary and high schools would be closed down. Here we get into a truly hideous waste of taxpayers' money. I recently toured Indianapolis, photographing these schools, and getting accurate cost figures on original cost and replacement cost.

The original construction cost of these 29 schools was right at $31 million. The replacement cost would be a little over $52 million. Not included in the sum total of this contemplated busing order as it applies to Indianapolis is the additional cost levied on the suburban school districts that must expand their facilities to take care of the influx of pupils. No one can accurately estimate that, but given the expense of expansion and building, it would surely run into many more millions, as well.

Some of these schools to be abandoned are only a few years old or have had current remodeling work done. Let me cite a few:

First, 545 East 19th Street—Constructed 1966 for $1.1 million; replacement cost: $2.2 million.

Second, 2447 West 14th; originally constructed in 1923, remodeled in 1968; total cost $1.5 million; replacement cost: $2.2 million.

Third, 3330 North Pennsylvania; built in 1967 at a cost of $1.2 million; replacement cost: $1.9 million.

Fourth, 150 West 40th; built in 1909, remodeled in 1972; total cost $1.2 million, overall; replacement cost: $1.6 million.

Fifth, 5050 East 42d; built in 1962; cost $657,000, replacement cost: $1 million.

The busing plan as contemplated by the two commissioners appointed by the Federal District Court recommended the abandonment of 28 schools in the Indianapolis School District. These two commissioners were allowed $225 each for an 8-hour day to work out the plan for abandonment of these schools. If the commissioner worked 16 hours a day he was entitled, by the court's orders, to a $450 fee that day.

The elected school board of the Indianapolis district objected to this appointment and objected to the fees allowed, without avail. These commissioners were paid more than $43,000 for this consulting, plus an additional $15,000 for expenses, all over the objections of the elected school board.

The court has now ordered three more "studies" by these commissioners to provide three more plans at the taxpayers' expense, to work out a busing plan within the school district of Indianapolis and not the suburban areas, which was covered by the consulting cited above.

The additional costs to the Indianapolis taxpayers for busing is estimated at $4 million. In addition to the loss of the school buildings, as recommended by the court-appointed commissioners will cost the taxpayers of the Indianapolis School District an added $20 million annually, if this busing plan is put into effect. This cost does not include the cost to the suburban schools which must, if this order goes into effect, find the money to expand their already overcrowded facilities, to take on the influx of new students from Indianapolis.

Many of us have fought for some years to prevent this irresponsible busing which threatens not only the neighboring schools but our entire educational system. We have passed legislation, in many ways similar to the one which we are now debating, but the Senate has always refused to go along. Many of you are not sufficiently interested in stopping this busing travesty because you think it "couldn't happen to you." I have pointed out what is happening in Indianapolis and if the probusing enthusiasts get by with this, they will attempt the same regimentation on you. Many of you who are against this busing are discouraged because the Federal courts are taking the control of schools away from you. Resounding victory in this busing matter today will have a profile and effect on stopping busing, as for the courts it is well to remember the old saying:

Even the Supreme Court reads the Election returns.

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

Mr. ESCH. I yield to the gentleman from Kansas.

Mr. WINN. Mr. Chairman, I commend my colleague from Michigan (Mr. ESCH) for today offering an amendment to H.R. 69, the Elementary and Secondary Education Act, to strictly limit the use of school busing.

Since coming to Congress, I have consistently supported the concept of the neighborhood school; I firmly believe the neighborhood is an appropriate basis for determining public school assignments. I am against the use of funds to force attendance of a student at a particular school or to force busing of students or abolishment of a school. When the House recently considered the National Emergency Act, I supported an amendment that would have banned petroleum allocation for busing of students to a school farther than the school nearest to their homes.

I rise in support of this amendment in the interest of the Kansas City, Kans., schools.

For those of you who are not familiar

with the situation in my district, last year the Department of Justice brought suit against the Kansas City, Kans., school system requiring a redistribution of teachers to achieve a racial balance. No action was taken, and Justice Department officials went to Kansas City to discuss the matter with the superintendent of schools, the board of education, and attorneys for the school board. After getting a first hand look at the schools in Kansas City, Kans., the officials determined that there existed de jure segregation of the schools, and that busing of students would be necessary in order to achieve a racial balance. Crossbusing of students is the only method by which an effective total integration program could be achievd in a district such as Kansas City, Kans. This completely destroys the concept of the neighborhood school.

In my opinion, busing is a waste of funds which could be far better used to bring the quality of education up for all children so that every child would have an opportunity to achieve to his maximum capabilities.

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

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

Mr. MIZELL. Mr. Chairman, I want to commend my friend the gentleman from Michigan for bringing this amendment to the House at this time.

Mr. Chairman, I rise in strong support of the amendment offered by Mr. ESCH which will strictly limit the use of crossbusing of schoolchildren. This amendment is the same as legislation which I strongly supported and the House of Representatives passed in 1972. Passage of this legislation is imperative at this time as the Supreme Court will soon rule on the question of even more crossbusing which has come about in the Detroit case.

In North Carolina, the Charlotte-Mecklenburg Board of Education is again devising a new plan to assign the county students to a school. This is the fourth time since that 1971 that the board has had to move sizeable number of school students in order to be in accord with a Federal district court judge ruling. As a result of the judge's ruling, the board of education must be certain that there be no predominance of one race in one school. The result is that the board must devise a new plan every year. In my own district, the school board of Winston-Salem-Forsyth County is in the process of devising again a plan which will be suitable to the court which has ordered over 11,000 school children bused solely to achieve court-required racial balances in the elementary and secondary schools.

One hundred fifty-seven new buses were required to implement that order. Each of those buses cost $6,300 to buy, and it costs $1,600 a year to maintain them, without mentioning the additional cost of busdrivers' salaries. The superintendent of schools in Winston-Salem has told me that this massive busing program requires an operating budget of $1.4 million. That figure represents almost exactly a 100-percent increase in transportation costs over the previous year.

Educational costs have risen astronomically and when we read of teachers in many cities striking for higher pay, of school buildings crumbling in disrepair, and of acute shortages in so many kinds of educational equipment, and when funds for these pressing needs cannot be supplied even now, how shall the cause of quality education be served by imposing overwhelming additional costs for purchasing and maintaining fleets of new buses?

In our admirable desire to provide a quality education for all, will we make it impossible to provide a quality education for any? This need not—it must not—be the case.

The American people, in poll after poll, have registered overwhelming opposition to busing simply to achieve racial balance, and I believe it is time that we in the Congress responded to the people's will in an effective way.

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

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

Mr. MILFORD. Mr. Chairman, I rise in support of the amendment.

The issue is the forced busing of students. Time and time again surveys and polls show that the people of this Nation do not want their children going to school outside their own neighborhood.

This amendment puts a stop to the practice. It not only makes clear that a child has the right to go to the nearest neighborhood school, it also prohibits funding of cross-town busing projects.

Somewhere along the line we have gotten off track on education in this country. We have let some other issues get in the way of a concept which I believe has been important in the development of the greatness of this Nation and its people.

This concept is a sense of community, and sense of home—a sense of a special place where our roots first begin forming.

Mr. Chairman, this concept is preserved in this amendment.

The child's first world is home and family. As the child grows, this world expands to include the immediate neighborhood, and the people in that neighborhood. As the child grows older and can be trusted to range farther, the world grows again to include more territory and more people.

This process continues until the child is old enough to start to school. In the traditional American concept of community, the child goes to a school close to home, and starts to school with other children from the home neighborhood. The world expands again to include new friends—but still, within the concept of the sense of community—the sense of roots.

Some well-intentioned people and some honorable courts have combined in recent years to flaw this concept, and break the cycle of normal development of the sense of community.

This flaw, of course, has been in rulings by courts ordering the transportation of children to schools away from their neighborhoods in order to achieve statistical balance among races.

The problem is not with the people who have brought suit, nor with the courts which have interpreted the laws and made the rulings and handed down the orders.

The problem is with the laws which have allowed these interpretations—which go against the grain of almost every American of every race.

The transportation solution to racial imbalance in the schools perhaps has solved a statistical problem. But it has ill-served its ultimate goal—the achievement of good will among Americans of different race.

Quite to the contrary, it has contributed to increased racial polarization.

The people, just plain citizens, black and white, whom I have talked with on this issue are not racists. They have no objection to school integration. In fact—most of them would welcome the opportunity for their children to attend school with children of other races—which would contribute to a broadening of the sense of community. What they do object to is the sudden break in this development which occurs when the child is ordered to a school out of the neighborhood.

Mr. Chairman, I sincerely hope that this amendment is not tagged as "anti-integration," because I favor racial integration as much as any Member of this body. We have open housing laws, and, I believe we should push harder to make job training and jobs available so that families can afford to change neighborhoods if they wish, instead of moving children around like pawns in some kind of statistical game.

I strongly urge passage of the Esch amendment which would put an end to this diversionary practice, and get us back to our basic educational concepts.

Mr. MONTGOMERY. Will the gentleman yield?

Mr. ESCH. Mr. Chairman, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I also commend the gentleman.

Mr. Chairman, I appreciate the gentleman yielding and providing me an opportunity to express my very strong views on the need to legislatively prohibit the forced busing of public schoolchildren simply to achieve racial quotas. Even though I do not totally agree with the entire thrust of the gentleman's amendment, I do support it in principle and urge its adoption.

It has always been my belief that a schoolchild should be allowed to attend the public school of his or her choice, which in the majority of instances, would be the closest school or neighborhood school. I have never understood the logic behind forced busing, unless it can be proven that such busing is being mandated to improve educational opportunity. Never in any conversations I have had with educators have any of them alleged that busing increases the educational opportunities available to our students. Quite to the contrary, they have repeatedly said that busing usually results in reduced educational opportunities and contributes to conditions that impede a child's ability to learn. The main impediment being the fact that the

students are most often tired out following a long bus ride and making it more difficult for them to concentrate on their work.

Mr. Chairman, I intend to continue to work for an amendment to the U.S. Constitution that would prohibit forced busing for racial reasons. But until we are successful in that venture, I do support the gentleman from Michigan (Mr. ESCH) in his current efforts and urge my colleagues to give their approval to this amendment.

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

Mr. ESCH. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. HUDNUT. Mr. Chairman, the amendment offered by the distinguished gentleman from Michigan (Mr. ESCH) has my full support. It provides that it is the policy of the United States that all children enrolled in public schools are entitled to equal educational opportunity and that the neighborhood is the appropriate basis for determining public school assignments.

Time and time again surveys and polls show that the people of this Nation do not approve of forced busing which takes their children far from the school nearest their home. The basic reason for such opposition is because forced busing denies Americans the rights to control the education of their children. It also can sometimes constitute taxation without representation. People who work in a community and pay school taxes to support the community's school system are suddenly told by a judge, overriding a local school board's mandate from the people who elected them on an antibusing platform, that their children will be bused to another district, and buses to accomplish this purpose must be purchased if they are not currently on hand. It is not hard to imagine why the vast majority of Americans oppose this idea. What is hard to imagine is why some courts adopted such a principle in the first place.

While this incendiary problem has confronted us first hand in Indianapolis, the implications are there for every urban-suburban area in the Nation. Cross-district busing in pursuit of racial balance is a bad policy. Such schemes are shortsighted, highly divisive, and not conducive to quality education. To persist in a bad policy which insures public turmoil and does not, in any event, produce improvement in education is sheer foolishness.

The thrust of the Esch amendment is to prohibit cross-district busing and to limit sharply the free-wheeling use of forced busing as a court-ordered tool. I feel sure the House will adopt this amendment as it reflects the views of an overwhelming majority of our constituents. It is my hope that it will also be adopted by the Senate and become law.

Mrs. HOLT. Mr. Chairman, the controversy over busing has been raging for far too long. The majority of American citizens have expressed their opposition to this practice; numerous pieces of legislation to curb this practice have been introduced—and no social or educational benefits have been proven to result from busing. Yet this practice continues to be implemented by the courts.

Without firm, decisive legislative action, court-ordered busing to achieve racial balance will continue unabated. The amendment before us will provide such action. This amendment provides that no child can be bused further than the second nearest school from his home; it provides that there shall be no cross-district busing unless it can be shown that districts were created for the purpose of segregation. It declares that busing plans which create serious risks to health and safety or disrupt the educational process are excessive.

The amendment before us is good, thoughtfully prepared legislation. It guarantees the constitutional right of equal educational opportunity while restricting unnecessary and excessive court-ordered busing.

Mr. Chairman, I am pleased to support the amendment offered by my colleague from Michigan (Mr. ESCH), and I commend him for presenting us with a thoughtful solution to this complex issue.

POINT OF ORDER

Mr. MEEDS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Does the gentleman from Michigan also desire to be heard?

Mr. ESCH. Yes, after the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, it is settled that while a bill may be brought before the House embracing different subjects, as does the bill now under consideration, it is not in order to introduce a new subject (V, 5825), which is precisely what the gentleman's amendment would do. The fundamental purpose of H.R. 69 is to extend, modify and create educational programs; the fundamental purpose of the gentleman's amendment is to limit the power of Federal courts to determine what constitutes a denial of equal protection of the laws under the Constitution. Therefore, the amendment is not germane (VIII, 2911). Going beyond the fundamental purposes of H.R. 69 and the gentleman's amendment, there is not even a specific provision of his amendment which deals with educational programs, which, along with administrative provisions governing such programs and two or three studies, are the only subjects dealt with in H.R. 69. The facts permit only one conclusion; the gentleman's amendment must be ruled out of order by reason of clause 7 of rule XVI.

Mr. Chairman, the gentleman's amendment is entitled the "Equal Educational Opportunities Act of 1974." It goes on to define what constitutes a denial of equal educational opportunity and then prescribes the remedies which the courts may employ in redressing such grievances. But more than that, the gentleman's amendment also defines what shall not constitute a denial of equal protection of the laws under the 14th amendment (sec. 205; 206) and further proscribes certain remedies for such denial (sec. 215; 216) and limits the application of court orders (sec. 219; 220) dealing with a denial of equal protection of the laws.

This amendment can in no way be described as dealing with educational programs, in whole or in part. It is, as previously stated, nothing less than a straightforward attempt to limit the jurisdiction and power of our courts to interpret the 14th amendment to the Constitution and to fashion appropriate remedies for its violation. While I would, on another occasion, argue that this represents a "backdoor" attempt to amend the Constitution—on the theory that a right for which there is no enforceable remedy is no right at all—that is not my purpose today. I wish only to point out in some detail both the particular and the fundamental purposes of the gentleman's amendment so that the Chair might better understand why they are completely unrelated to the bill under consideration which, as I have said, deals entirely with various educational programs.

I should parenthetically add that the waivers of points of order under clause 7 of rule XVI contained in the resolution were of a limited nature and do not apply to the gentleman's amendment.

Mr. Chairman, I insist on my point of order.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard on the point of order?

Mr. ESCH. I do, Mr. Chairman.

Mr. Chairman, I think we should point out that the amendment of-offered by me, on behalf of others and myself, is clearly in order to H.R. 69. I would refer the Chair to the fact that H.R. 69 not only amends the Elementary and Secondary Education Act of 1965, but also amends the General Education Benefit Act on which the Commissioner of Education has specific authority to deal on all matters pertaining to elementary and secondary education.

Furthermore, it also amends the Emergency School Aid Act. Indeed, in title IX under section 901, there are specific amendments to the Emergency School Aid Act referring to the question of integrated schools and even going specifically to the point as to the number of minority group children which comprise the makeup of a minority school.

So, clearly an amendment which would be related to the education in segregated or nonsegregated schools would be clearly in order.

It should also be pointed out that such matter pertains specifically to the transportation of pupils, which is also a part of this act. Furthermore, it is interesting to note that there are many other extraneous matters even apart from the Elementary and Secondary Education Act, such as the amendment extending adult education sections, which surely do not pertain to the K through 12 programs; and even on the study of the need for athletic trainers in secondary schools and institutions of higher education, which clearly are far beyond the boundary of merely amendments to Elementary and Secondary Education Act.

Therefore, Mr. Chairman, I would strongly recommend to the Chair that the amendment we offered is germane.

Mr. STEIGER of Wisconsin. Mr. Chairman, may I be heard on the point of order?

Mr. Chairman, I rise to make a point of order against the amendment offered by the gentleman from Michigan. The second section of clause 7 of rule XVI of the House states very clearly that—

No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Section 2995 of volume VIII of the Precedents of the House clearly states that it is up to the maker of an amendment to prove germaneness. I do not think that is possible. H.R. 69 deals with various forms of Federal aid to education. Every provision of the bill is related to that purpose. On the other hand, the amendment offered by the gentleman from Michigan does not in any way deal with Federal aid or with aid of any sort to education. The sole purpose of the amendment is to define unlawful practices as they relate to the segregation of schoolchildren. A further major section of the amendment places restrictions on Federal courts and directs the Attorney General to take certain actions. The heart and substance of the amendment is aimed at limiting the transportation of students. H.R. 69 does not touch upon that subject matter in any way. Clearly transportation is not germane to H.R. 69.

On September 22, 1914, the Chairman of the Whole ruled that to be germane an amendment must be "akin to, or near to, or appropriate to or relevant to and germane amendments must bear such relationship to the provisions of the bill as well as meet the other tests; that is, that they be in a natural and logical sequence to the subject matter and propose such modifications as would naturally, properly and reasonably be anticipated."

Certainly there is no logical sequence between providing Federal aid on the one hand and restricting the powers of the courts on the other.

I would also call the attention of the Chair to a ruling on May 24, 1917, by Chairman Hamlin that if any portion of an amendment is not germane then the whole amendment must go. Certainly, the section of the amendment which limits court orders is not germane to H.R. 69 nor is the section directing intervention by the Attorney General.

I would point out further that the amendment does not amend existing law; it merely adds new language to the bill—another clear sign of the non-germane nature of the amendment.

I ask the Chair to sustain the point of order.

Mr. O'HARA. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. O'HARA. Mr. Chairman, I think it ought to be observed that this bill before us deals with every single aspect of Federal programs touching on elementary and secondary education.

It deals with title I; it deals with educationally deprived children, with libraries, with learning results from educational innovation, with support and assistance to federally impacted school districts, with adult education, with community education, education for the handicapped, bilingual education, the study of rate funding, the study of the need for athletic trainers, the amendments to the General Education Provisions Act, and, finally, amendments to the Emergency School Aid Act, which deals with the same subject, that is, methods by which equal educational opportunities may be obtained.

The mere fact that this seeks to achieve those objectives by different means and with different enforcement mechanisms cannot render the amendment not germane to the bill before us.

Mr. Chairman, I believe and I assert that the amendment is germane to the bill and I hope that the Chair will so rule.

Mr. MEEDS. Mr. Chairman, may I be heard further on the point of order, in response to the two points which were raised by the gentlemen?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MEEDS. Mr. Chairman, I agree with the gentleman from Michigan (Mr. O'HARA) that the Elementary and Secondary Education Act covers a great deal of education. That is precisely my point of order.

Nowhere does it deal with the court's interpretation of the 14th amendment rights, and that is what the amendment offered by the gentleman from Michigan (Mr. ESCH) seeks to do.

Second, the gentleman from Michigan (Mr. ESCH) is urging that because his amendment amends the Emergency School Aid Act, which is also amended by H.R. 69, this is sufficient to overcome the question of germaneness.

There is a very slight amendment which deals with a totally different matter in this bill. As a matter of fact, there are two minor matters involved. But neither of these minor amendments is in any sense connected with the fundamental purpose of the gentleman's amendment.

In addition, it cannot be argued that the general subject matter of the Emergency School Aid Act has, by reason of these amendments, become a part of the purpose of the committee's amendments or of the gentleman's amendment.

Mr. ASHBROOK. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. ASHBROOK. Mr. Chairman, I rise to make this statement only because of the statement made by my distinguished colleague, the gentleman from Washington (Mr. MEEDS) in indicating that nothing in the Emergency School Aid Act dealt with 14th amendment rights.

I think it is very clear that the entire thrust of the Emergency School Aid Act was based on decisions relating to busing. The Congress took action in response thereto to implement it, and exactly the opposite is the case. That was the entire thrust of the Emergency School Aid Act.

The CHAIRMAN (Mr. PRICE of Illinois). The Chair is prepared to rule.

The gentleman from Washington (Mr. MEEDS) makes the point of order that the amendment offered by the gentleman from Michigan (Mr. ESCH) is not germane to the committee substitute amendment for H.R. 69.

The committee substitute amendment for H.R. 69 has as its major purpose the extension and amendment of several statutes relating to Federal assistance to State and local educational agencies.

The committee amendment contains many diverse sets of guidelines to be followed by State and local educational agencies in the administration of those federally funded educational programs.

The amendment offered by the gentleman from Michigan does, as the gentleman from Washington suggests, go to the delineation of Federal court jurisdiction over constitutional questions of what constitutes a denial of equal educational opportunity and of equal protection of the laws; but it also contains broad directives to State and local educational agencies which would prohibit those agencies from implementing plans which deny, in several enumerated ways, equal educational opportunity. The remedies to be imposed for the violations by State agencies are not limited to court proceedings but include Federal departmental and agency proceedings as well, such as those of the Office of Education.

The Chair would like to point out that while committee jurisdiction is not an exclusive test of germaneness, the Committee on Education and Labor has considered bills similar in text to the amendment offered by the gentleman from Michigan.

The Chair would also point out that under the precedents it is not the function of the Chair to construe the legal effect of an amendment. That is left to the committee itself. The Chair feels because the amendment operates, in part, as a direct restriction on the State and local educational agencies whose activities are being funded and directed in many diverse ways by the committee amendment that the amendment is germane, and the Chair overrules the point of order.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS AS A SUBSTITUTE TO THE AMENDMENT OFFERED BY MR. ESCH TO THE COMMITTEE SUBSTITUTE

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment as a substitute to the amendment offered by Mr. ESCH to the committee substitute.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois as a substitute to the amendment offered by Mr. ESCH to the committee substitute: Page 58, immediately after line 18, add the following new title:

TITLE II—NATIONAL EQUAL EDUCATIONAL OPPORTUNITIES

PART A—FINDINGS AND PURPOSE STATEMENT OF FINDINGS

SEC. 1401. The Congress finds that—

(a) the maintenance of dual school systems or practices which result in the assignment of students to school on the basis of race, color, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(b) the time is at hand when substantially all school systems administered or directed by local educational agencies will, in compliance with the Constitution have become unitary;

(c) as the demography of the Nation continues to change, local educational agencies are not required by the Constitution to make year-by-year adjustments of the racial composition of student bodies, once the affirmative duty to desegregate has been fulfilled and racial discrimination through official action in public schools has been eliminated;

(d) the courts have failed to develop clear, rational, uniform, and reasonable guidelines for fashioning remedies to correct denials of equal protection of the laws and in some instances, this has resulted in requirmeents for transportation of students by local education agencies considerably in excess of that previously carried on by such schools and which may pose a threat to the health and safety of students and may excessively interfere with the educational process;

(e) throughout the Nation inequality in educational opportunity persists for children from minority groups and low-income families, children from minority groups and low-income families are often concentrated in schools in which they form a majority of the student population, and as a result of these facts, educational achievement of such children is often below the results achieved by children from other racial and socioeconomic backgrounds.

PURPOSE

SEC. 1402. It is the purpose of this title to—

(a) improve the results achieved by elementary and secondary education throughout the Nation and to encourage and support efforts to reduce achievement disparities between racial and socioeconomic groups in the schools;

(b) facilitate, where possible, consistent with the objectives stated in subsection (a), a reduction in the concentration of children from minority groups and low-income families in certain schools, including prevention of resegregation after desegregation has been achieved, primarily by means other than extensive cross-transportation;

(c) reduce and eliminate any educational ill effects resulting from the concentration of children from minority groups and low-income families in schools where such concentration persists; and

(d) specify guidelines, pursuant to powers granted the Congress by the Constitution, for appropriate remedies for the correction of practices by local educational agencies which are found to deny equal protection of the laws or to deny the equal educational opportunities guaranteed by this title.

PART B—DENIAL OF EQUAL EDUCATIONAL OPPORTUNITIES

SEC. 1411. No State or educational agency established by a State shall deny equal educational opportunity to an individual on account of race, color, or national origin by—

(a) deliberate segregation of students on the basis of race, color, or national origin among or within schools;

(b) failure in situations in which such deliberate segregation has occurred or is occurring, to take affirmative steps, consistent with Part D of this title, to remove the vestiges of discrimination due to official action;

(c) construction, abandonment, alteration, or other siting of school facilities within a district with the intent of, or having the natural, probable, foreseeable and actual effect of, increasing segregation of students on the basis of race, color, or national origin within the school district unless such effect is unavoidably necessitated by sound nonracial educational considerations;

(d) creation of attendance zones or the establishment of attendance policies, including but not limited to optional attendance zones, open enrollment, or free transfer programs and feeder patterns, with the intent of, or having the natural, probable, foreseeable, and actual effect of, increasing segregation of students on the basis of race, color, or national origin with the school district, unless such effect is unavoidably necessitated by sound, nonracial educational considerations;

(e) transfer of a student to a school outside the attendance zone in which he resides with the intent of, or having the natural, probable, foreseeable, and actual effect of, increasing segregation of students on the basis of race, color, or national origin within the school district, unless such effect is unavoidably necessitated by sound nonracial educational considerations;

(f) failure to take appropriate action to attempt to overcome language barriers, or cultural, social, economic, or other deprivations that impede equal participation by students in instructional programs of educational agencies;

(g) discrimination on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of faculty and staff;

(h) failure to provide—

(1) opportunity at the beginning of any school year for any student to transfer from a school to which he has been assigned or would in the regular course be assigned, and in which his race is a majority to a school to which transfer is requested offers education in the grade equivalent to that from which the student transfers; and

(2) transportation which may be required to effectuate this subsection:

Provided, That any local educational agency may postpone a students' privilege to exercise the right guaranteed by this subsection for a reasonable period of time while the most rapid feasible effective measures are taken to alleviate conditions of overcrowding in the school to which transfer is requested;

(i) maintenance of practices and provision of resources in schools in which minority groups are concentrated that are less favorable for educational advancement than at schools attended primarily by students of any other race, color, or national origin. Examples of disparities between such schools which may constitute a denial of equal educational opportunities include—

(1) comparative overcrowding of classes, facilities, and activities;

(2) assignment of fewer or less qualified teachers and other professional staff;

(3) provision of less adequate curriculums and extracurricular activities or less adequate opportunities to take advantage of the available activities and services;

(4) provision of less adequate student services such as guidance and counseling, job placement, vocational training, medical services, remedial work;

(5) assigning heavier teaching and other professional assignment to school staff;

(6) maintenance of higher pupil-teacher ratios;

(7) provision of facilities (classrooms, libraries, laboratories, cafeterias, athletic and extracurricular facilities), instructional equipment and supplies, and textbooks in a comparatively insufficient quantity; and

(8) provision of building, facilities, instructional equipment and supplies, and textbooks which, comparatively, are poorly maintained, outdated, temporary, or otherwise inadequate.

SEC. 1412. The Secretary shall issue regulations further setting forth measures to be taken by local educational agencies to come in compliance with this part.

LAWSUITS

SEC. 1413. (a) Any person or persons alleging, or the Attorney General if he has reasonable cause to believe, that any policy or measure of a local educational agency violates section 1411 of this title may bring a civil action in the appropriate United States district court for equitable relief, including an application for a permanent or temporary injunction, or other order. If the court finds that such policy or measure exists, it shall order the rescinding of such policy or measure, and shall order affirmative action to be taken to cure present effects caused by such policy or measure.

(b) In any action commenced under this section, the court may allow the moving party, other than the United States, a reasonable attorney's fee as part of the costs, if such party or parties prevail in the action. Where the prevailing party is the defendant, the court may allow such prevailing party a reasonable attorney's fee as part of the cost upon a finding that the proceedings were unnecessary to bring about compliance.

(c) Any policy or measure which violates section 1412 shall also be deemed to constitute a violation of section 601 of the Civil Rights Act of 1964, whether or not a civil action with respect to such violation has been brought under this section.

PART C—STATE EQUAL EDUCATIONAL OPPORTUNITIES PLANS

SEC. 1421. (a) Each State shall prepare and submit to the Secretary for his approval, in accordance with regulations issued by him a plan to carry out the purpose of this title as stated in section 1402.

(b) The plans of Virginia and Maryland shall take account of the areas of the District of Columbia nearest to each and shall be worked out in consultation with the local educational agency of the District of Columbia.

ADVISORY COUNCILS AND COMMITTEES

SEC. 1422. The plan submitted by each State shall provide for—

(a) the establishment of a State advisory council which shall be appointed by the Governor and which shall—

(1) include as members businessmen, educators, parents, and representatives of the general public, and shall be so constituted that parents of children attending public schools constitute at least a majority of such membership, and that parents of children from minority groups are represented in an approximately proportionate number to the number of minority group children in the school age population of the State;

(2) advise the State educational agency on the development of and policy matters arising in the administration of the State plan submitted pursuant to this part; and

(3) prepare and submit through the State educational agency to the Secretary an annual evaluation report accompanied by such additional comments of the State agency as it deems appropriate, which evaluates the progress made in that year by the State in achieving the purpose of this title; and

(b) the establishment of local advisory committees which shall—

(1) include as members parents of children attending public schools, and shall be so constituted that parents of children from minority groups are represented in an approximately proportionate number to the number of minority group children in the school age population of the local educational agency; and

(2) advise the local educational agency on its participation in the State plan.

PROVISIONS OF THE PLAN

SEC. 1423. The plan submitted by each State shall—

(a) be submitted to the Secretary by June 30, 1975;

(b) be developed in consultation with local educational agencies and the State advisory council; and

(c) define goals consistent with the purpose of this title as set forth in section 1402, and provide for attaining such goals by a date approved by the Secretary, but in no event later than August 30, 1985.

SEC. 1424.1. Such State plans shall include specific means for implementing some or all of the following components:

(a) (1) A majority transfer plan on either an intradistrict or an interdistrict basis. Such majority transfer plans shall include—

(A) provision for transportation of any student voluntarily requesting to transfer from a school to which he has been assigned or would in the regular course be assigned, and in which his race is in majority to a school in which his race is in a minority, if the school to which transfer is requested offers education in the grade equivalent to that from which the student transfers;

(B) provision for professional and paraprofessional staff for guidance, counseling and other special or compensatory services to children transferred in programs authorized by this subsection;

(C) provision for reimbursement of any school district receiving students from another school district participating in a transfer program authorized by this subsection in an amount equal to the sum of—

(i) not less than 70 percent and not more than 110 per centum of the average basic expenditure per pupil for all students in such receiving district financed from local revenue sources multiplied by the number of students received by such district pursuant to programs authorized by this subsection; and,

(ii) not less than 70 per centum and not more than 110 per centum of the average expenditure per pupil incurred by such distric for programs established pursuant to subsection (a) (1) (b) multiplied by the number of students received by such district as determined in subsection (a) (1) (C) (i) above:

Provided, That no school district shall be eligible for reimbursement under subsection (a) (1() (C) (i) unless it carries on a program for the benefit of transferring students pursuant to subsection (a) (1) (B).

(2) The Secretary shall publish, and from time to time revise, guidelines and standards for the implementation of this section not more than one hundred and twenty days from the date of enactment, including—

(A) reasonable standards and guidelines regarding contiguity and distance between schools, attendance zones, and school districts under which any majority transfer program established pursuant to this subsection may be effectuated; and

(B) such other regulations and guidelines as may be necessary to carry out the purposes and any provisions of this subsection.

(b) An open communities educational resources compensation program which shall—

(1) provide for payments to any school district in which students from minority families comprised not more than 10 per centum of total school enrollment during the school year 1975–1976, or in which students from low-income families comprised not more than 10 per centum of total enrollment in such district during such year, in an amount equal to the sum of—

(A) not less than 70 per centum and not more than 110 per centum of the average basic expenditure per pupil for all students in such district financed from local revenue sources multiplied by the difference of the number of students from families specified in subsection (b) (1) enrolled in such district during any school year, and the number of students from such families enrolled in such district during the school year 1975–1976, if the latter is smaller; and

(B) not less than 70 per centum and not more than 110 per centum of the average per pupil expenditure of any program that may be established by such school districts pursuant to the provisions of subsection (a) (1) (B), multiplied by the difference of the number of students from families specified in subsection (b) (1) enrolled in such district during any school year and the number of students from such families enrolled in such district during the school year 1975–1976, if the latter is smaller: *Provided*, That, for the purposes of computations pursuant to subsection (b) (1), students from low-income families who are also members of minority groups shall not be counted more than once.

(2) beginning after the school year 1979–1980, the base year for computations under subsections (b) (1) (A) and (b) (1) (B) shall be increased by one year for each year that the current school year exceeds such year.

(3) the Secretary shall publish, and from time to time revise, such guidelines as may be necessary to effectively carry out this subsection not more than one hundred and eighty days after enactment.

(c) (1) A school district reorganization plan which may include—

(A) redrawing zone boundaries, pairing, and clustering schools, establishing educational parks and magnet schools, and such other features as may be determined by the Secretary to be consistent with the objectives set forth in section (3) (a) and (3) (b) of this title; and

(B) cooperative arrangements between school districts, where factors of distance, locations, and contiguity make t.is feasible, for common use of existing school facilities and for the construction of new joint facilities, including educational parks.

(2) State plans including a component pursuant to this subsection shall provide for payments to school districts in an amount equal to the sum of—

(A) not less than 70 per centum and not more than 110 per centum of the difference of the average operating expenditure per pupil, including transportation costs, for all students in such district financed from local revenue sources during the school year 1975–1976, or the school year next preceding the implementation of a plan pursuant to this subsection, whichever is later, and the average operating expenditure, including transportation costs, financed for local revenue sources for students directly participating in a program pursuant to this subsection during any school year multiplied by the number of such students; and

(B) not more than 35 per centum of any capital costs, including expenditures for new school facility construction, or for rehabilitation, renovation, or restructuring of existing facilities, that may be directly incurred in the implementation of a program pursuant to this subsection.

(3) For the purpose of making computations for payments under this subsection—

(A) computations under subsection (c) (2) (A) of the average per pupil operating expenditure for the base period, whether the school year 1975–1976 or the year next preceding the implementation of a plan pursuant to this subsection, whichever is later, shall be made separately for each school district participating in a cooperative arrangement pursuant to subsection (c) (1) (A), and the multiplicand shall be the number of students participating in such cooperative arrangement who would have in the ordinary course attended schools operated solely by such district;

(B) beginning after the school year 1979–1980, the base year for computations under this subsection, if such base year is the school year 1975–1976, shall be increased by one year for each year that the current year exceeds such year, or in the event that the base year is after the school year 1975–1976, beginning four school years after such year the base year shall be increased by one year for each year that the current school year exceeds such year;

(4) The Secretary shall publish, and from time to time revise, such guidelines and regulations as may be necessary to carry out the purposes of this subsection not more than one hundred eighty days after enactment;

(d) (1) An approved, concentrated compensatory education program. State plans containing components, pursuant to this subsection shall provide that:

(A) expenditures under this subsection shall be made only—

(i) in school districts which are eligible for a basic grant during any year under title I of the Elementary and Secondary Education Act of 1965; and

(ii) in schools, in school districts meeting the above requirement, in which a substantial proportion of the students enrolled are from low-income families, as that proportion may be defined by the Secretary, but in no case shall the proportion of students be less than 25 per centum of total enrollment in such schools;

(B) average expenditures per pupil for students enrolled in schools participating in programs pursuant to this subsection shall increase with the proportion of students from low-income families enrolled in such schools according to a schedule and such other guidelines as the Secretary may establish;

(C) average expenditures per pupil for compensatory programs established pursuant to this subsection shall be at least equal to a minimum effective threshold level established by the Secretary, but in no case, except for such exceptions as the Secretary may expressly allow, shall such minimum effective threshold level be less than 30 per centum of the average basic per pupil expenditure for all students in the school district in which such school is located:

Provided, That expenditures under titles I and III of the Elementary and Secondary Education Act or any other comparable Federal or State compensatory or enrichment program, which meet the requirements of subsection (d) (1) (D) (ii) below may be considered as expenditures under this subsection;

(D) expenditures for programs pursuant to this subsection shall—

(i) be made only for basic instructional programs, supportive services and vocational guidance; and

(ii) be made only for programs and learning approaches that the Secretary has certified as having demonstrated ability or potential for improving the achievement performance of educationally deprived students;

(2) Not later than one hundred days after the enactment of this title the Secretary shall publish, and thereafter from time to time revise, giving appropriate notice to all affected parties, such regulations and guidelines as are specified in subsections (d) (1) (A) (ii), (d) (1) (B), (d) (1) (C), (d) (1) (D) (i), and (d) (1) (D) (ii) of this section and such other regulations as he may deem necessary in his discretion, to effectively carry out the purposes of this subsection.

SEC. 1425. State plans submitted pursuant to this title shall—

(a) assure that in each year of operation of the plan substantial progress will be made toward meeting the purpose of the title;

(b) specify how additional State financial assistance will be made available to local educational agencies undergoing desegregation pursuant to a court order, a plan approved in accordance with title VI of the Civil Rights Act of 1964, or an order issued by a State agency or official of competent jurisdiction;

(c) specify how programs now funded under the Elementary and Secondary Education Act of 1965, or any other federally funded program for educational enrichment or desegregation assistance, are fitted into and coordinated with operation of the plan;

(d) specify the procedures to be used by the State educational agency in coordinating the efforts of the local educational agencies desegregating (as specified in subsection (e) or voluntarily integrating);

(e) specify what procedures will be used by the State educational agency for involving on an equitable basis children enrolled in private nonprofit schools in the programs funded under this title to the extent that their participation will assist in achieving the purpose of the title; and

(f) assure that the State educational agency will require each local educational agency to report to it annually on its implementation of the State plan, and that the State agency will report annually to the Secretary on the State's overall implementation of its plan.

GRANTS

SEC. 1426 (a) (1) There are authorized to be appropriated for carrying out this part not in excess of $200,000,000 for fiscal year 1976, $500,000,000 for fiscal year 1977, and $750,000,000 for each fiscal year thereafter.

(2) The Secretary shall allot—

(A) from the sum appropriated under paragraph (1) above for fiscal year 1976 an amount equal to—

(i) 85 per centum of such sum among the States so that the amount allotted to each State bears the same ratio to such sum as the aggregate number of minority group children aged five to seventeen, inclusive, in such State bears to the aggregate number of such children in all the States, to be used for the purpose of developing a State plan pursuant to this part;

(ii) 15 per centum of such sum to other public and private agencies that may provide assistance to the States in developing plans and in preparing to implement plans pursuant to this part;

(B) from the sums appropriated under paragraph (1) above for fiscal year 1974 and each fiscal year thereafter, an amount equal to—

(i) 65 per centum of such sum, to be known as a basic grant, among qualifying States so that the amount allotted to each qualifying State bears the same ratio to such sum as the aggregate number of minority group children aged five to seventeen, inclusive, in such qualifying State bears to the aggregate number of such children in all qualifying States;

(ii) thirty per centum of such sum, to be known as a supplemental grant, among qualifying States so that the amount allotted to each qualifying State bears the same ratio to such sum as the aggregate number of minority group children, aged five to seventeen, inclusive, in such qualifying State bears to the aggregate number of such children in all qualifying States; and

(iii) five per centum of such sum to other public and private agencies that may provide assistance to States in planning, implementing, revising and evaluating plans pursuant to this part.

(3) A State shall qualify to receive—

(A) a basic grant under subsection (a) (2) (B) (i) during fiscal year 1974 and any year thereafter, if it has submitted a plan that contains at least two components provided by section 1424 which comply with any applicable regulations issued by the Secretary pursuant to such section, and which has been approved by the Secretary pursuant to section 1427 below; and

(B) a supplemental grant under subsection (a) (2) (B) (ii) during fiscal year 1974 and any fiscal year thereafter, if it has submitted a plan which places primary and substantial emphasis on programs pursuant to section 1424(c) which comply with any applicable regulations issued by the Secretary pursuant thereto, and which has been approved by the Secretary pursuant to section 1427 below;

(b) All sums appropriated under the Elementary and Secondary Education Act of 1965, and all other Federal ment or for desegregation assistance shall be allotted to implement the approved plan.

(c) No funds granted under this part may be used to supplant State or local educational funds being expended, or that would have been expended, absent the grant, in or for public schools or to assist any private school directly.

(d) The Secretary shall publish, and from time to time revise, such regulations as may be necessary to effectively carry out this section, including definitions and criterion for eligibility for supplemental grants under the "primary and substantial" requirement of subsection (a) (3) (B), within one hundred and eighty days of the enactment of this title.

Sec. 1427. (a) The Secretary shall approve any State plan which meets the requirements of sections 1421 through 1425 and any applicable guidelines and regulations issued by the Secretary pursuant thereto, and shall not finally disapprove any such plan without first affording the agency administering the plan reasonable notice and an opportunity for a hearing.

(b) Whenever the Secretary, after reasonable notice and opportunity for a hearing—

(1) disapproves a plan pursuant to subsection (a), or

(2) finds:

(i) that no plan has been submitted by a State,

(ii) that a State plan approved under subsection (a) has been so changed that it no longer complies with the requirements of section 1421 through 1425,

(iii) that in the administration of such a plan there is a failure to comply substantially with any such provisions, or

(iv) that a grantee is in violation of section 1426(c)

the Secretary shall notify the grantee that further payments will not be made to the grantee under this part, under title I of the Elementary and Secondary Education Act of 1965, or under title III of the Elementary and Secondary Education Act of 1965 or any other educational enrichment or desegregation assistance program (or, in his discretion, that further payments will be limited to grantees or programs not affected by the failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Secretary shall make no further payments under such titles (or shall limit payments to grantees or programs not affected by the failure).

JUDICIAL REVIEW

SEC. 1428 (a) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State plan under section 1427(a) or with his final action under section 1427(b), such State 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 Secretary. The Secretary 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.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary 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.

PART D—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

SEC. 1431. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws;

SEC. 1432. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall consider and make specific findings on the efficacy of the following remedies in correcting such denial and shall require implementation of the first of the remedies set out below, or on the first combination thereof, which would remedy such denial;

(a) assigning students to the school closest to their place of residence which provides the appropriate grade level and type of education for such students;

(b) good faith participation in and reasonable progress in the implementation of an approved State plan pursuant to title II of this Act by the local educational agency involved;

(c) transportation of students to schools other than the one closest to their own home.

SEC. 1433. No court, department, or agency of the United States shall, pursuant to section 1432 order the implementation of a remedy that would:

(1) pose a risk to the health and safety of the students involved, significantly impinge on the educational process, or involve the transportation of students to schools significantly inferior to those which such students would in the ordinary course have attended; or

(2) substantially increase during any school year the average daily time of travel or the proportional average daily number of students to be transported by the educational agency over the comparable average for the preceding school year, unless it is demonstrated by clear and convincing evidence that no other method set out in section 1432 will provide an adequate remedy for the denial of equal educational opportunity or equal protection of the laws that has been found by such court, department or agency. The implementation of a plan calling for increased transportation, as described in this subsection, shall be deemed a temporary measure and such plan shall be ordered in conjunction with the development of a long-term plan as provided by part C of this title.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 1434. Nothing in this part prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this part nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

PART E—GENERAL PROVISIONS

DEFINITIONS

SEC. 1441. For purposes of this title—

(a) The term "minority group" means Negroes, American Indians, Spanish-surnamed Americans, and Orientals.

(b) The term "low income" family means any family that has an annual income during any year which is below the "weighted average thresholds at the low-income level" as determined by the Bureau of the Census of the United States Department of Commerce. For the purposes of this title the Secretary shall publish, not later than six

months preceding the beginning of any school year, a schedule of low-income family definitions by family size, type, and by place based on the latest available data from the Bureau of the Census.

(c) The term "local educational agency" means a public board of education or other public authority legally constituted within a State or either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies.

(d) The term "school" means a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(e) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(f) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(g) The term "State" means one of the fifty States or the District of Columbia.

(h) The term "segregation" means the operation of a school system in which students are separated among the schools of an educational agency or within a school, as a result of actions and practices, both past and present, by such agency, on the basis of race, color, or national origin.

(i) The term "desegregation" means any actions by an educational agency undertaken to correct and remove the vestiges of segregation as defined in subsection (c) above.

(j) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency, either directly from revenues raised from local sources or indirectly from revenues or grants from other agencies of government.

(k) The term "basic instruction programs" means instructional services in the field of mathematics or language skills which meet standards the Secretary may prescribe.

(l) The term "basic supportive services" means non-institutional services such as counseling, curriculum guidance, and health or nutritional services as prescribed by the Secretary.

(m) Expenditures for basic instructional programs or basic supportive services do not include expenditures for administration, operation, and maintenance of plant, or for capital outlay, or such other expenditures as the Secretary may prescribe.

(n) The term "average basic expenditure per pupil" means the average expenditure per pupil for all educational costs incurred by the district other than costs for any compensatory program under titles I and III of the Elementary Education and Secondary Education Act of 1965, or any other comparable Federal or State compensatory or enrichment programs, as these may be specified by the Secretary.

SEC. 1442. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under section 1426(a)(2)(B)(ii) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

Mr. ANDERSON of Illinois (during the reading). Mr. Chairman, in view of the length of the amendment and my hope that I would be able to explain it during the 5 minutes that I will have, I would ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD, pointing out also that we have previously on the 25th of March inserted this in the CONGRESSIONAL RECORD, and have provided copies to both sides of the aisle.

In addition to that, the Members were circularized in a letter signed by the gentleman from North Carolina (Mr. PREYER) and the gentleman from Arizona (Mr. UDALL) and myself, under the date of March 25, as to our intention to offer this amendment during consideration of this bill.

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

There was no objection.

Mr. ANDERSON of Illinois. Mr. Chairman, I believe it was Winston Churchill who once said:

> If we open a quarrel between the past and the present, we shall find that we have lost the future.

I would hope that in discussing the very controversial issue of school desegregation and busing that we do not simply find ourselves locked into a quarrel with the 14th amendment's equal protection clause or with the Supreme Court decision in the Brown case that separate educational facilities are inherently unequal. For I fear that if our debate and actions follow that course, we will indeed have lost the future, we will have abandoned the American dream of equal protection of laws for all of our citizens, of equal educational opportunity for all of our children of all races.

Let us proceed, therefore, with the paramount objective of insuring those basic guarantees, of moving toward the realization of that dream, and of building upon the progress that we have achieved over the past two decades. Rather than reopening a quarrel with the past, let us seize upon the future and demonstrate to the American people that we are capable of addressing our concerns in a constructive and responsible manner, without forfeiting the rights or the means to secure those rights.

I acknowledge at this point, certainly, the very able assistance of the gentleman from North Carolina (Mr. PREYER) and the gentleman from Arizona (Mr. UDALL). Also we consulted very extensively over many months, in the course of the preparation of this amendment, with a learned constitutional expert, Prof. Alexander Bickel of the Yale Law School.

The substitute amendment that we are offering is aimed at addressing the legitimate concerns of the American people while we attempt to build upon the racial progress that we have achieved in this country since Brown versus Board of Education.

Like many Members of this body, I too have been critical of the many conflicting and even confusing opinions that have emanated from lower courts across this land on the issue of school segregation. I, too, have been critical of what I considered to be excessive and unreasonable court-imposed desegregation plans which have involved sometimes overly extensive transportation of students.

Mr. Chairman, it is easy to be a critic, and it is oftentimes very popular to remain simply in that role but to quote once again from Churchill:

> It is better to be . . . an actor rather than a critic.

I have long felt that one of the reasons we are saddled with these problems in the courts is because the Congress has been remiss, has been derelict in its responsibility to take affirmative and constructive action in this sensitive area. For too long we have been critics rather than actors. Then it seems that when we do act it is only to legislate our criticisms without really providing long-term solutions, while at the same time narrowing the range of solutions that are available to the courts.

Our Equal Educational Opportunities Act is a sincere effort, therefore, to produce responsible and constructive action by the Congress. In essence, our amendment would do three things. First, it would define what acts by educational agencies shall be considered denials of equal educational opportunities. These, if the Members have read the amendment as we placed it in the RECORD, would include both deliberate acts of racial segregation, as well as the perpetuation of less favorable conditions and resources in those schools having high concentrations of minority group children.

Second, our bill would establish a Federal grant program that would be designed to enable State and local educational agencies over a 10-year period to both reduce racial isolation in the schools and improve educational opportunities for minority group children, through the implementation of statewide equal educational opportunity plans.

Again I emphasize that we recognize that this has to be a long-range solution and, therefore, the provision specifically in the act for a 10-year State plan designed to provide equal educational opportunity.

Then third, and very importantly for those Members of this body who are concerned about some of the excesses that have occurred in some court decisions across the land, our amendment would prescribe very clearly a priority of remedies to be followed by Federal courts and agencies in correcting those denials of equal protection of the laws and equal educational opportunities.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. ANDERSON of Illinois. The first priority—and again it is clearly stated in the text of the amendment—would be the preservation of the neighborhood school concept. The second priority would be good faith compliance and progress in the implementation of an approved State plan. Finally—and we make this again I think very clear in the language of the amendment—the remedy of last resort would be limited transportation. We provide specifically in that regard, and I read from section 233 of the amendment:

No court, department or agency of the United States shall pursuant to Section 232 order the implementation of a remedy that would:

(1) pose a risk to the health and safety of the students involved, significantly impinge on the educational process, or involve the transportation of students to schools significantly inferior to those which such students would in the ordinary course have attended.

Further addressing ourselves to those legitimate concerns that many parents have when the issue of busing is raised, there would be no authority to order the implementation of a remedy that would, and I quote:

Substantially increase during any school year the average daily time of travel or the proportional average daily number of students to be transported by the educational agency over the comparable average for the preceding school year, unless it is demonstrated by clear and convincing evidence that no other method set out in Section 232 will provide an adequate remedy for the denial of equal educational opportunity or equal protection of the laws that have been found by such court, department, or agency.

Mr. Chairman, in conclusion, I would point out that the key to this approach is the fact that we would not only and simply be proscribing the remedies available to the courts, but we would be insuring with Federal funds that realistic alternatives to massive transportation are both practical and achievable over a reasonable period of time.

Obviously, in my judgment, it would be a mistake to deny the courts all remedies, as some would do, for correcting denials of equal protection of the laws. I cannot subscribe to that view of the Constitution. But I think it would also be a mistake to narrowly proscribe available remedies to the courts in the area of transportation without making realistic provision for alternative remedies that will successfully pass constitutional muster, and that is what we have done and made available through the provisions of this amendment.

It is our feeling that this Equal Educational Opportunities Act—its title—with its funding for the implementation of State plans will guarantee that those alternatives are more than a hollow promise, more than just an illusory goal or a smokescreen; that they are, indeed, both feasible and attainable.

Mr. Chairman, the American people are looking to the Congress for a responsive and responsible solution to this problem, and the courts, themselves, are literally crying out for guidance and direction. Justice Powell pointed out in his concurring opinion in the Denver case that the court has yet to provide a constitutional rule of uniform, national application with respect to our national problem—and it is a national problem—of school desegregation.

He went on to say that it has yet to clear up the ambiguities of the Swann case over the question of extensive transportation as opposed to the need to "restore a more viable balance among the various interests which are involved."

Mr. Chairman, I urge adoption of our amendment that will finally, at long last, lay down some uniform national standards in this area and will enable us to strike a proper balance between the recognized interests of our society, and it is and must be and must remain a legitimate interest and goal, namely to achieve desegregation and at the same time alleviate the concerns of those who feel that in some cases the remedy of busing has been applied in an unwise and indiscriminate fashion. I urge support for the amendment that has been offered by me and prepared also by the gentleman from North Carolina (Mr. PREYER) and the gentleman from Arizona (Mr. UDALL).

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

Mr. Chairman, may I at the outset commend the gentleman from Illinois (Mr. ANDERSON) and the gentleman from Arizona (Mr. UDALL) and the gentleman from North Carolina (Mr. PREYER) for their work with this amendment. I think it is without question the most constructive amendment that has been offered on this subject and I think every one of the gentlemen involved is sincerely concerned about this problem and seeks to try to do something about it in a legislative fashion. I have nothing but the highest regard for them as individuals, so it is with reluctance that I oppose their amendment.

I agree precisely with what the gentleman from Illinois (Mr. ANDERSON) said that the major reason we are here today with this problem is that the Congress failed and refused to accept its responsibility years ago in this field and failed and refused to legislate practically and constructively, like the gentlemen are today proposing in their amendment.

I would just say if we had taken the responsibility then which we should have, then the thing which has transpired would not have. But the fact is that the Court did rule and the Court did fill the vacuum created by the failure of this House and the other body to act. When they did step into the matter they laid down certain principles under which we are now compelled to act, and among those principles was the requirement that the dual school system be dismantled and among other cases that busing was a proper method of dismantling the dual school system.

That is where I think the amendment offered by the gentlemen comes into conflict with what the Court has already said. Specifically I refer to part 4 under "Remedies," section 1433 which says:

No court, department, or agency of the United States shall, pursuant to section 1432 order the implementation of a remedy that would:

(2) substantially increase during any school year the average daily time of travel or the proportional average daily number of students to be transported by the educational agency over the comparable average for the preceding school year, unless it is demonstrated . . .

And there it sets out certain methods.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield at this point?

Mr. MEEDS. I yield to the gentleman from Illinois at this point, because this is the crucial point.

Mr. ANDERSON of Illinois. Mr. Chairman, it seems to me the crucial proviso is one the gentleman referred to but did not read which says:

Unless it is demonstrated by clear and convincing evidence that no other method set out in section 1432 will provide an adequate remedy for the denial of equal educational opportunity . . .

That is the very heart of this amendment, it seems to me. We are not proposing that we in any way vitiate those guarantees that have already been provided by the Constitution under the 14th amendment or under the decisions referred to by the gentleman.

Mr. MEEDS. I am sure the gentleman believes that and I hope if the amendment passes he is correct. It is a close question and I would have to agree on that with the gentleman.

It seems to me that the language hinges too much on what the gentleman has already said was essential, the dismantling of the dual school system. In response, this language could be used to prevent that. That is why I am reluctantly opposed to the amendment.

In other respects I think it is very constructive and would work well; but the gentleman puts his finger right on the crucial point. It is a very close question about the remedies provided. I happen to think it goes too far, but again, my commendation for a very good try.

Mr. ESCH. Mr. Chairman, I rise to speak against the substitute.

Mr. Chairman, with due respect to the gentleman from Illinois and his attempt to present a compromise position, we might best describe his amendment substitute as a probusing amendment. He may not concur in that description.

His suggestion was that Winston Churchill said we should be actors, rather than critics. I would concur, but this, indeed, is not a stage that we are engaging in, in terms of a play and a performance. Rather, we are engaging in the very serious business of helping to assure the education of our children.

Congress today should clearly give an indication and state clearly the intent that under the Constitution of the United Sates we firmly believe that every child should be educated to his or her fullest potential; but that, likewise, we believe that busing to achieve that result is neither acceptable educational policy nor good social policy.

Now, the gentleman's amendment, while carefully drawn, has two or three provisions in it that I would point out specifically to the members of the committee. It states, for example, in section 1421 that each State shall prepare and submit to the Secretary for his approval, in accordance with regulations issued by him a plan to carry out the purpose of this title as stated in section 1402, the implementation of which could well require massive busing.

So what we really have here is giving to the State, but under the direction of the Secretary the responsibility for continuing the confusion over the issue of busing.

Mr. Chairman, I suggest that today is the time to clearly indicate we are concerned with educating our children, be they black or white, be they in the city or in the suburbs. Let us once and for all

remove ourselves from the onus of the busing—no busing posture. Let us end the confusion. Let us reject the substitute and support the original amendment.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Michigan.

Mr. O'HARA. I have quickly glanced over the substitute and, of course, I am familiar with the Esch amendment. The Esch amendment contains three important provisions, at least, that are not contained in the substitute.

The first is the provision of the Esch amendment that no child could be used further than the school nearest or next nearest to that child's home. There is no such provision in the substitute.

Mr. ESCH. That is correct.

Mr. O'HARA. Second, the Esch amendment provides that if a school system operates a racially nondiscriminatory system of attendance or not, it would not be in violation of the equal educational opportunity requirement. The substitute contains no such provision.

Third, the Esch amendment provides that there shall be no cross-district busing, unless it can be shown that the districts were created for the purpose of segregation and the substitute contains no such provision.

I, therefore, support the Esch amendment as opposed to the substitute.

Mr. ESCH. I appreciate the comments of the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman from Michigan yield?

Mr. ESCH. I will be happy to yield.

Mr. ANDERSON of Illinois. Mr. Chairman, I agree wholeheartedly with what the gentleman from Michigan (Mr. O'HARA) said, that we cannot include a specific provision in the Esch amendmend; in other words, to have busing beyond the nearest school.

What we have tried to do with the aid of the best constitutional authorities available is to pass something that will pass constitutional muster, and I submit that the gentleman's amendment does not need that very important test.

Mr. ESCH. Mr. Chairman, I would respond to the gentleman from Illinois by saying that this amendment was also very carefully drafted to assure its constitutionality, but at the same time remove once and for all the question of whether or not we are going to have cross-district busing.

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

Mr. ESCH. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would agree 100 percent with what the gentleman from Michigan has said, and also his colleague from Michigan (Mr. O'HARA).

I have studied these busing amendments over the years and have been the author of several busing amendments, and I would merely say in addition to what the gentleman has said, without in any way disparaging the authors of this amendment, that this appears to be an amendment for those who are really for busing.

Mr. ESCH. Mr. Chairman, I appreciate not only the gentleman's interest just today, but his contribution throughout the years on similar amendments.

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

Mr. Chairman, I would just like to call the attention of the Members to the fact that, while I do not intend to get into a constitutional debate, I would like to call to their attention that ever since the first of the year and part of last year, I have heard about spending money without looking into where the money was acquired and how it was to be arrived at and the amount to be spent.

It might interest the Members to know that according to the analysis I have in my hand, it will cost 2,150 million in the first 4 years of operation, and it continues on to $750 million per year. That goes about 2 billion by authorization of this particular piece of legislation immediately, within the immediate future, over and above the $304 billion we are talking about overspending.

Is there justification in what this substitute does for that kind of expenditure? We have enforcement provisions now on the busing. We have had busing, and whatever provisions there are have been through many court sessions and court decisions. Where did the figure for $2 billion come from in this particular item, and how do we spend it? What is it going to do?

I am not taking a position either way on the merits of the proposal itself and the substitute, but I am asking now, like a very famous Pennsylvanian who preceded me in this Chamber a few years before me, used to say, "Where is the money coming from?"

Mr. Chairman, my people are just beginning to wonder if we really are silly enough to keep adding $2 billion a day to this budget. The whole cost for disadvantaged children in title I is only $888 million. I do not say that in disregard of the amount or as considering it to be a small amount, but here we are in one small phase of the bill where very little, if anything, has been told us how much it encompasses and what the scope of the act is going to be.

Mr. Chairman, in my district we have no problem whatsoever. Everything is going along smoothly. They bus where they have to and they do not bus where they do not have to, but to add now an entirely new enticement to somebody of over $2 billion, I wonder if we really ought not to be criticized by some people for this.

Mr. PREYER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I want to support the amendment offered by the gentleman from Illinois (Mr. ANDERSON), because I think it is time that we take a completely new approach to this whole subject of busing.

Busing represents the most serious challenge to the political center we have ever had in this country, and we have not been responding to it, in my judgment, in as responsive a way as we ought to. We have gone through many efforts. Congress passed a lot of bills dealing with busing. They have all proven to be futile, and in my judgment the Esch amendment is going to be another of those examples. Either the Senate will not pass them, or the courts find them unconstitutional, or else easily avoid them.

Now, it is said that this amendment is a "weak, prointegration amendment," that it is not tough enough on busing. But I say to the Members, as the gentleman from Illinois (Mr. ANDERSON) tried to point out, that this bill does what we in Congress can do in this area.

Now, we cannot pass a law simply saying "there shall not be busing instituted as a remedy for school segregation." As long as we have the principle of separation of powers in this country, we cannot restrict court remedies.

Now, why is this amendment better than the Esch substitute?

Well, I would say it is better for two reasons, which I hope the Members would at least consider:

First, that this bill is clearly constitutional.

The point was raised by the gentleman from Washington concerning the limits on distance traveled and time traveled, and limits on increases in the number of children based and I would say, as the gentleman from Illinois (Mr. ANDERSON) answered, that when those points are properly qualified and carefully worked out, then they are constitutional. I have discussed this provision with Dr. Bickel and he does not see any problems with it.

This bill is constitutional, because it does not try to restrict remedies. Instead, it gives local communities and school officials the means and incentives to develop alternative solutions to busing.

Now, the Esch substitute does try to restrict remedies. For example, it says that we cannot "bus beyond the next nearest school." Well, what is wrong with that? In the first place, it is probably unconstitutional, because it is restricting the remedies the courts can apply in situations where the courts say there has been a constitutional wrong.

Second, as a practical educational matter, that has serious defects in it. What it will result in is this:

Where we have cities with a 50,000 population or over, the black community largely lives together, and the whites live in areas surrounding them. There is usually a low-income white community that lives adjacent to the black community. So when we limit busing to the next nearest school, we will mix low-income whites with low-income blacks, which the Coleman report says is the worst educational mixture we can have.

We would further embitter the low-income white who feels that he is bearing all of the burden on busing now—and substantially he is.

So, Mr. Chairman, this amendment does not try to restrict remedies in that form. We cannot forbid busing by an act of Congress, but we can make it a remedy of last resort, and we can proscribe limitations on the way this tool of busing is used.

Mr. Chairman, that is what this bill tries to do. It is our basic procedure in this bill that we believe that a national commitment to the goal of integrated education must be maintained, not just because it is our constitutional mandate to

do it, but because it is right. However, we think that if we do not do that, if we do not reach an integrated school system by some alternative plan which does not involve large scale busing, then we risk losing the goal itself of a desegregated school system

Mr. MARTIN of North Carolina. Mr. Chairman, will the gentleman yield for a question?

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

Mr. MARTIN of North Carolina. Mr. Chairman, with regard to sections 1411 (h) (1) of the substitute offered by the gentleman from Illinois (Mr. ANDERSON), I find the provision that when a student applies for transfer from a school where he or she is in a racial majority to a school where there would be a racial minority, that will be granted and transportation must be provided.

I find that a little bit ironic, because that is exactly what the Charlotte-Mecklenburg school board offered during the course of litigation, during the so-called case of Swann versus Board of Education, and in that particular case the district court held against the school board and said that that was not an allowable remedy for desegregation.

Mr. Chairman, I will ask the gentleman this: What can the gentleman say to me about this that would provide us with any assurance that the court would hold other than what it held at that time?

Mr. PREYER. Mr. Chairman, the majority-minority transfer rule is in effect in many districts in this country, and I would say the district the gentleman speaks about is the only one I know of in which a judge has said there is something wrong with that.

The majority-minority transfer rule is a voluntary way to try to open up the ghetto schools so that the bright young black from those schools can get out if he wants to

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. PERKINS, Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. PREYER. To complete my answer to the gentleman from Charlotte, there is no way in which we can legislate that will make every district judge listen to commonsense and follow the law. What we have to hope for is to pass a law under authority of the Congress so that the school board can go to the judge and say, "Look, Mr. Judge. This is a national policy established by the Congress and we have set up a plan under it. We are using this provision under it," and hope that that judge does not feel, like a few judges in this country do, that he knows more than the school board knows about running the schools, or that at least the appellate court would uphold this.

This is a reasonable plan. I used to be a judge, and I think most judges are looking for an honorable way out of this situation. A few will not be, but I think the appellate courts will look after us on that.

Mr. MARTIN of North Carolina. I thank the gentleman from North Carolina for his response.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I oppose the substitute and I oppose the Esch amendment.

As a lawyer, I believe that the Congress does not have the power to restrict or abrogate or dilute the equal protection or due process clauses of the Constitution. I see these amendments as doing just that, by attempting to overturn Supreme Court rulings which have held that local school districts do have a responsibility to remedy school segregation and that busing may be an appropriate remedy to accomplish desegregation. I question the constitutionality of these amendments.

In addition, I object to both amendments because I believe they are an assault upon the children of this country—not just black children, but all the children of America.

Earlier, some of us were very disappointed to find that the bill we have been acting on here was discriminating against children from certain parts of the country. At least, that is the way it was described. Frankly, I think if you deprive some children, you deprive all. If children are poor in one place, then they are poor in another place. Our concern should be to provide quality education for all educationally deprived children.

Mr. Chairman, these amendments will not benefit our children. This is a game we grownups are playing in order to demonstrate certain things to our constituencies, to try to indicate that we have certain beliefs that we believe are their beliefs. But, if we are talking about education and if we are talking about equal opportunity and if we are talking about the fact that we have a responsibility to see that all children poor, black, and white have an opportunity to get quality education in the best way we can, then the answer is not in these amendments.

There are many people who feel as strongly as I do about the Constitution who do not necessarily care for busing. Nobody says that busing is our constitutional objective. We have argued this issue over and over again. The courts have said, however, that we have to take certain steps to find a way in which to do away with dual systems of education and to provide an equal opportunity for all children to learn. Educating all our children to enable them to earn a livelihood and to become contributing members of society will eventually reduce the numbers on AFDC and help to eliminate many of the problems we are attempting to deal with today.

Although the proposed amendments make a pretense of eliminating the vestiges of dual school systems, it is obvious that they are aimed at preserving the status quo, as reflected in neighborhood schools, and at eliminating busing as a means of accomplishing desegregation. What we see in the substitute amendment is nothing new; this is the President's 1972 recommendation with some modifications. It has the same inducements, offering $200 million for the first year and $2 billion over a 10-year period to implement so-called equal educational opportunity plans. All we are doing is delaying. To postpone desegregation while pretending to encourage it is a sham and a sad reflection on our sincere commitment to improving educational standards.

The issue here is not educational opportunity or educational equality. The issue is something much deeper than that. I indicated what I was objecting to several months ago, when I had my words stricken. I do not want to refer to what I was indicating at the time those words were stricken—but the fact is that those of us who are committed to education, as we all are, know full well that, should we vote for these antibusing amendments, we are not serving the cause of education but are merely inflaming prejudices and pitting group against group. So these amendments should be voted down. It is time that we discussed the issues on the merits, and not on the basis of how we think our constituents are going to react.

Therefore, Mr. Chairman, I urge that we oppose the substitute amendment, and I urge that we oppose the Esch amendment.

Mr. MIZELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment offered by the gentleman from Illinois (Mr. ANDERSON) to the amendment to the committee substitute offered by the gentleman from Michigan (Mr. ESCH).

Mr. Chairman, I rise merely to say to my colleagues that it was mentioned that we were seeking a remedy to the madness of cross busing, and let me assure the Members that that is exactly what we are attempting here this afternoon.

The amendment offered by the gentleman from Michigan (Mr. ESCH) will give a clear-cut, definitive answer to this problem that we are confronted with.

The people in my congressional district want cross busing ended and are not concerned whether we get a constitutional amendment that will correct the situation, whether we get a judicial decision that will correct the situation, or whether we get legislation that will correct the situation, but they are crying out for a solution to this problem. So I say that the Esch amendment is the best attempt to accomplish this. So let us defeat the substitute. Let us adopt the Esch amendment, as it is the beginning to the answer they are seeking.

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

Mr. Chairman, I sense that the Committee is about ready to vote on this amendment, and the substitute, and I just wish to offer a couple of thoughts. The American people are good people. We are not racist people. There is a great reservoir of good will among whites and blacks in this country that we could utilize toward solving this very pressing social problem.

But for the last 10 years we have been in the trenches fighting this same battle, and I do not believe we have had a single new, innovative idea offered to meet the problem until the gentleman from North Carolina (Mr. PREYER) who

is one of the most decent and intelligent men in this or any other legislative body, came along with this constructive approach.

This approach, worked out by one of the Nation's foremost constitutional authorities, Prof. Alexander Bickel of Yale University, says this:

Let's get out of the trenches. Let's stop fighting each other with the same old arguments. Let's try a new approach. We are not going to solve the problem of school desegregation with anti-busing amendments of questionable Constitutionality. Nor are more court orders and more indiscriminate implementations of massive busing going to solve the problem.

What is going to solve the problem is the members of each community—the teachers, the parents, the administrators, the representatives of all the minority groups—sitting down and devising a positive, solid proposal for desegregating their schools and insuring equal educational opportunities for children of all races. And if it turns out that busing is the best way to achieve that end, then busing will be used. If some better means can be implemented to insure integration and equality, then so be it.

And, yes, we have some money for these communities that will undertake the very hard and difficult task of carefully planning and implementing a sound conclusion to this tough social problem. But this does not mean we are saying to each community, "all right, boys, you have got 10 years to come up with an alternative for busing and during those 10 years you are going to get off scot free."

We realize that we have a legal as well as a moral obligation to see the goals of this proposal achieved with all deliberate speed. So we have stated in our measure that if necessary, busing may be implemented on a temporary basis to insure that we do not lose sight of the goal while we are working out long-range plans.

Unlike the amendment offered by the distinguished gentleman from Michigan (Mr. ESCH) our proposal addresses the problem and not the courts. Our proposal does not make the legal mistake of usurping the jurisdiction of the judicial branch. If, at any time, the courts see that a State is not complying with this measure by making a solid, good faith effort, then the courts can legally step in and order remedial action.

It is my belief, however, that such an action on the part of the courts will not be necessary. I feel that the majority of the citizens of this Nation want a sensible, forward-looking educational policy that promotes the goal of equality and desegregation with substantive programs rather than disruptive court orders.

What I see here today is the same kind of polarization we have seen for the past decade and I fail to see what good it has produced. It is time Congress take up its responsibility, abdicated for so long to our already overburdened courts. It is time we present the people of this Nation with a reasonable educational policy that gives them substance and not form.

The substitute amendment offered by the distinguished gentleman from Illinois (Mr. ANDERSON) is the beginning, if Congress has the will to try something new.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

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

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

I want to congratulate the gentleman on his statement and say again what he has already said so very eloquently and effectively: That this House owes a very great debt of gratitude to the gentleman from North Carolina (Mr. PREYER) who really is the one who should be given the full credit for the hard work and initiative of developing this proposal. I cite also in that regard the gentleman now in the well.

This is not a matter that has just been lightly thought over once or twice; it has been worked on. We testified on some of these principles as long ago as July 1972, before the House Committee on Education and Labor. We spent literally hours—and particularly the gentleman from North Carolina (Mr. PREYER)—in working out any possible constitutional difficulties with Professor Bickel of Yale. This is a responsible, constructive proposal that should not lightly be dismissed by this House this afternoon.

Mr. UDALL. I yield back the balance of my time.

Mr. PERKINS. Mr. Chairman, I ask unanimous consent that all debate on the Esch amendment and the substitute offered by the gentleman from Illinois (Mr. ANDERSON) to the committee substitute and any amendments thereto, close at 5 minutes after 6 o'clock, and that the last 5 minutes be reserved to the committee.

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

Mr. BADILLO. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. PERKINS. Mr. Chairman, I make the same request to close at 6:30.

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

Mr. ANNUNZIO. I object.

The CHAIRMAN. Objection is heard.

Mr. PERKINS. Mr. Chairman, I make the same request to close at 6:15.

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

Mr. ANNUNZIO. I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I move that all debate on the Esch amendment and the substitute amendment offered by the gentleman from Illinois (Mr. ANDERSON) to the committee substitute and all amendments thereto, close at 15 minutes after 6 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ASHBROOK. Would the Chair answer whether or not the last 5 minutes were reserved to the committee?

The CHAIRMAN (Mr. PRICE of Illinois). The Chair will state that was not in the motion. No such reservation was made in the motion.

The Chair recognizes the gentleman from California (Mr. CORMAN) for 3 minutes.

(By unanimous consent Mr. HAYS yielded his time to Mr. CORMAN).

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

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

Mr. HAYS. I just want to make a small observation. I arrived late, and I have been inclined to listen with great sympathy to any amendment offered by the gentleman from North Carolina, but when I saw the Anderson-Udall Mutual Admiration Society in operation, I became a little suspicious.

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

Mr. CORMAN. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, I have rarely done anything around here that the gentleman from Ohio approved of. However, I was reminded of a story I heard about the Quaker funeral. They were trying to think of something good to say about this fellow. Finally, somebody shuffled his feet and said, "He wasn't much, but I will say this about him: He wasn't as mean sometimes as he was usually."

Mr. CORMAN. Mr. Chairman, I do not want to get involved in any discussions of personalities of Members in the House. However, I have never been enchanted by the great constitutional authority, Mr. Bickel.

I have never had the feeling that the gentleman was useful in moving this country toward an integrated society generally or so far as public education is concerned.

It is tragic that we have the problem in this country of racial segregation. If we had not had massive cross busing of schoolchildren to maintain segregated schools over the past 100 years, we would not have the problem we now have of integrating our society.

I would like to ask the proponents of the substitute, if I may, whether they distinguish between de facto and de jure segregation so far as the remedies in their proposal are concerned.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

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

Mr. ANDERSON of Illinois. Mr. Chairman, there is not a distinction in terms of a precise definition. I think that is something we will probably have to leave to the courts to determine, but by setting out specifically those actions on the part of local educational agencies that would constitute deliberate segregation or in referring specifically to things such as the perpetuation of inferior educational resources with respect to minority groups and minority students, I think we do make a contribution in giving the courts some guides which they do not now have as to what does constitute segregation, be it de jure or de facto.

Mr. CORMAN. I understand then that the amendment does set up some guide-

lines for the courts in attempting to define what constitutes illegal segregation.

Mr. ANDERSON of Illinois. Very definitely. The gentleman is correct.

Mr. CORMAN. What remedies are available to the courts under this amendment that are not now available to the courts?

Mr. ANDERSON of Illinois. I think principally the State plan. The fact that we do provide that a State could enter into a State plan whereby over a period of 10 years they could move toward the goal of integration, removing any objections that may have been raised with respect to inferior or unequal education, this is really the heart of the new proposal. I think we mention other things the school districts could do that have been talked about for a long time such as minority transfer of educational parts, pairing, redrawing of attendance zones, and so on, but the new and I think really creative thing that the gentlemen have come up with is the idea of the State plan.

Mr. CORMAN. Is that in a sense, giving the school districts a 10-year breather to come up with a plan?

Mr. ANDERSON of Illinois. It does not, because the plan has to be approved by the Secretary of Health, Education, and Welfare and it has to be a plan that goes toward the goal of integration, but we recognize that in many areas because of the demographic situation that exists it is impossible for a court or any Government agency to decree an overnight solution to this very, very difficult problem. But I think it certainly makes it explicitly clear that the movement of progress has to be in the direction of achieving that goal of an integrated system.

Mr. CORMAN. May I ask further who decides who gets how much money to implement the integration plan?

Mr. ANDERSON of Illinois. The Secretary of Health, Education, and Welfare would by regulation decide.

Mr. CORMAN. And if I may ask further, if a plan were submitted he would have to find that it would end racial discrimination with all deliberate speed, before they would be entitled to money?

That must recall to a great many people the phrase that was used by the Supreme Court in 1954. How discouraging.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. PATTEN).

Mr. PATTEN. Mr. Chairman, I strongly believe the solution to the problem of inequities in our educational system is not busing to achieve racial balance. The real balance is to provide equal aid to education so every student receives a quality education. The American people are overwhelmingly against busing to achieve racial balance, and so am I.

I always feel that if something is unreasonable and ineffective, we should not vote for it.

I, therefore, vote against the substitute and vote for the amendment of the gentlemen from Michigan, Mr. ESCH and Mr. O'HARA and others.

I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, if the Anderson-Udall substitute with respect to busing works no better than the Udall Postal Service bill, we can get along very well without it.

Mr. Chairman, I rise in opposition to the Anderson-Udall substitute and support the Esch amendment.

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

Mr. GROSS. I yield to the gentleman.

Mr. SNYDER. Mr. Chairman, I rise in opposition to the substitute and support the Esch amendment.

Mr. Chairman, I have carefully studied both the Esch amendment and the Anderson substitute.

The Anderson substitute would be a much weaker proposition than is proposed by the gentleman from Michigan (Mr. ESCH).

Personally, I wish the Esch amendment were stronger but I recognize that barring a constitutional amendment, it probably is the best we can do that stands a reasonable chance of standing the constitutional test that it will probably be confronted with before the Federal courts.

Mr. UDALL. Mr. Chairman, will the gentleman from Iowa yield?

Mr. GROSS. I am happy to yield to the gentleman.

Mr. UDALL. I wonder if the gentleman would include, since my errors and omissions are being advertised, among my list of failures the Udall-Gross plan with respect to the increase of salaries of Members this year?

Mr. GROSS. I was happy to join with the gentleman in that defeat.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, this is only my second time around the Congress. The first time this issue came up I was impressed by the statements made by many of my colleagues that there was a sincere attempt to come to grips with the problem of integration in the schools and that they really were not against integration. They were against busing and they were in favor of the neighborhood school. So shortly after the debate was concluded I introduced legislation to provide that no area within 50 miles of an urban center should be allowed to zone in such a way as to prevent the building of low-rent housing or middle-income housing within a community.

Would Members believe that every one of those that said they favored the neighborhood school and favored integration opposed the signing of the bill.

Now, we do not need a Professor Bickel or other experts from the universities to see what any child can understand, that is, that we cannot bring about integration unless we seek to do it through housing.

It was not the Supreme Court who said that we should have busing. The Supreme Court merely said we would have to move with all deliberate speed and then because of the actions of the local governments, every other possibility, integration and housing, barring educational grants was excluded; so there was no alternative except busing.

We are very foolish here if we think that the courts are not going to see through this maneuver, because already in the case of Davis against the School District of Pontiac, the courts have said:

> . . . for a school board to acquiesce in a housing development pattern and then to disclaim liability for the eventual segregated characteristic that such pattern creates in the schools is for the board to abrogate and ignore all power, control and responsibility. A board of education simply cannot permit a segregated situation to come about and then blithely announce that for a Negro student to gain attendance at a given school all he must do is live within the school's attendance area. To rationalize thusly is to be blinded to the realities of adult life with its prejudices and opposition to integrated housing.

I do not think we are fooling anyone by coming up with these maneuvers. I think it is clear that the courts are going to strike this amendment down as they have struck other provisions down, unless we face up to the reality that the way to bring about equal opportunities is to do it not just in education, but in housing and in every area of activity of our society.

Therefore, I oppose both amendments.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. QUIE).

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

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

Mr. BIAGGI. Mr. Chairman, I rise in support of the Esch amendment.

Mr. Chairman, I wish to urge all of my colleagues in the House to carefully consider and vote for the amendment offered by my distinguished colleague from Michigan (Mr. ESCH) on behalf of himself and the distinguished gentlemen from Michigan (Mr. O'HARA, Mr. FORD, and Mr. HUBER).

The time has finally come to lay to rest the issue of forced school busing. This amendment will do just that by firmly supporting the unimpeachable goal of equal educational opportunity for all, while preventing hardship to our children bused far from home to no purpose at all.

This amendment states that the absence of racial balance does not, in itself, constitute denial of equal protection of the laws. This is as it should be. For we have found, after a number of years of experimentation with busing, that it is counterproductive.

Originally, I was in favor of school busing. We faced a serious problem of unequal education and had to try every available tool to end it. But busing has caused more problems than it has solved, and I have, therefore, ceased to support it. It has not worked and the cure has been worse than the disease.

The education of our children has been disrupted. Countless thousands have been subjected to significant risk of accident on the long roads which lead to schools far from home and their neighborhood school. Countless thousands have failed to receive educational services they desperately need for effective programs be-

cause great amounts of money have been spent on buses and drivers. Countless children have lost the invaluable benefits of attending a school near their home, a school whose teachers their parents could know and communicate with concerning the welfare of their children.

The cost of busing is clearly too high. It is unreasonable and it is senseless. Even prominent black educators, such as Dr. Kenneth Clark, have concluded it is the wrong route. I urge all my colleagues to support this amendment and secure for our children the services, safety, and community they need and are entitled to.

Mr. QUIE. Mr. Chairman, I just want to take a few moments to explain where I stand. The Members have pretty well decided how they are going to vote the way it looks. We have an excellent education bill with which we would like to go to the other body and work out the differences without this busing battle. I notice that this body, the House, put an antibusing amendment on the energy bill, and it complicated matters. The Energy Emergency bill was complicated enough the way it was. I wish the House would not complicate the future of a good education bill with these amendments.

Mr. Chairman, as some Members might remember, in the last Congress I introduced the administration's so-called antibusing bill, changed it the way I thought it ought to be written in committee, and we brought it to the House floor. I think the desegregation question is serious. I think the House and the Congress has neglected its responsibility in this whole area of integration and busing, but it ought to consider legislation in that area as a subject by itself.

The last time, what is now the Esch amendment included amendments, added on the floor of the House which went further than I could accept, and they are still included, so I plan to vote against the Esch amendment because of that. It was my feeling that the administration went about as far as it could constitutionally in the bill I introduced for them in the last Congress and if this House goes further than that, then we are treading uncertain ground. We are not certain of the Esch amendment's constitutionality. That was my position then, and it is my position now.

Mr. Chairman, there are some parts of the Anderson substitute which I like, and other parts which I do not like. If we were spending our time on this problem as a bill before us, reported from a committee, I would offer some amendments to it to make it comply with the way I think the integration, desegregation, antibusing, whatever we want to call it, ought to be. I do not think we have the time for it now; in fact, I know we do not have the time since that has been limited.

Mr. Chairman, we must vote these amendments up or down as they are. I plan to vote against both of them, hoping that my colleagues will do so also, but we will do the best we can.

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

Mr. QUIE. Mr. Chairman, I yield to the gentleman from California.

Mr. BELL. Mr. Chairman, I commend the gentleman from Minnesota for his remarks, and wish to associate myself with his position. I plan to vote against both of these amendments.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS) to close debate.

Mr. PERKINS. Mr. Chairman, I personally feel that if we are going to do anything in this area to restrict busing insofar as racial balance is concerned, we must do it by a constitutional amendment.

Now, in regard to the Esch amendment, I think we are just fooling ourselves when we support the Esch approach, and I will tell you why.

The Esch amendment tries to reverse the Supreme Court decisions, which have held that under the Constitution there must be busing beyond the neighborhood school or the next closest school. And, of course, all cases, including the case of Brown against the school board, the decision which was made back in 1954, would have to be reopened and retired if the Esch amendment were adopted.

Mr. Chairman, if we had discussed this amendment some 20 years ago, before the courts had ever made their rulings, prior to 1954, if we had perhaps given the courts some guidance, this could have been an entirely different picture. But we did not. The point I wish to make is that we have had busing amendments introduced in every appropriation bill, we have had busing amendments introduced in all the school bills, and to complicate the greatest school bill that we have in existence by adding an antibusing amendment at this stage of the game, in my judgment, would be doing serious harm to the schoolchildren in this country, because we are going to have a great many problems in working this matter out with the other body.

Mr. Chairman, we should approach this matter through a bill from the Committee on the Judiciary; we should not undertake to pull down the greatest piece of school legislation that we have in existence today by attaching this amendment.

It is my hope that the membership of this body will oppose not only the Esch substitute, but likewise the Anderson amendment.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Chairman, I thank my distinguished friend, the Chairman of the Committee.

I certainly agree that this matter should be handled separately. In light of the fact, however, that it is not being handled separately, I would like to express my appreciation to the gentleman from Illinois (Mr. ANDERSON), the gentleman from Arizona (Mr. UDALL), and the gentleman for North Carolina (Mr. PREYER) and say that as an alternative their approach is extremely attractive.

Mr. Chairman, I intend to vote for it, and I hope that it prevails.

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in support of the Esch amendment to H.R. 69, Elementary and Secondary Education Amendments of 1974 to strictly limit the use of schoolbusing. My support for this amendment is based upon my sincere belief it is wrong to force a child or an adult to have his life regulated by the Federal Government with regard to schooling because of his race, creed, or color. I do not believe the drafters of our Constitution, who struggled to give man freedom of his own destiny, intended that we divide schoolchildren along racial lines. In this regard, busing per se, as disagreeable and senseless as it may seem under court order, is a symbol; it is not the real issue. The real issue, the underlying reason so many American blacks, whites, Chinese, and others oppose busing is the force involved; it is the loss of individual freedom implicit in the compulsory assignment of one's children on the sole basis of race to a particular school against one's will. This does not mean that Americans are essentially racist but simply means that the American people like, to the extent that they are able, to send their children to schools of their choosing in neighborhoods where they choose to live. They do not want the Government telling them that they must send their children, because of their race, to some other particular school. They feel that their inalienable rights, their civil liberties, are being infringed. The tragedy of this whole affair has been a great divisiveness throughout the country, between the races, among the branches of Government and the States, between the North and the South. It has anti-Government feelings and a distrust of the lawmakers and of the courts. Its principal victims have been the children, regardless of race. This well-meant plan to bus schoolchildren to achieve integration has undermined public education and the neighborhood schools. It has made millions of Americans angry. It has robbed all of us of an essential part of our freedom.

Mr. Chairman, there is a way out of the tragic happenings of the past, a way to regain the freedom which our young schoolchildren have lost through senseless and meaningless busing. For this reason, I strongly urge my colleagues to support this amendment to restrict the use of busing on the principle of the second closest school.

Mr. MITCHELL of Maryland. Mr. Chairman, the issue of busing has been out discussion of H.R. 69, the Elementary and Secondary Education Act amendments. To listen to much of that debate, one would get the idea that schoolbusing is a new and dangerous experiment for racial purposes. This, of course, could not be further from the truth. The busing of schoolchildren has been going on for generations. There was little objection when the purpose was to preserve segregation. There was little concern for the health, safety, or inconvenience of the children—black or white. The big difference is, as some of my distinguished southern colleagues have pointed out, that school desegregation and busing are now being applied in the North and West.

To listen to much of the schoolbusing debate, one would also get the idea that this country is run by pure and untainted philosophers who recognize that, philosophically, busing is not an optimum condition and thus must be eliminated. Unfortunately, this country is quite far from that point at which it will

be run on pure philosophy. In the words of Chief Justice Burger in the case of Swann against Charlotte-Mecklenburg:

> All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation. The remedy for such segregation may be administratively awkward, inconvenient and even bizarre in some situations and impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system.

Now I am not fooling myself as to the convincing effect of Justice Burger's words. It is just because the Supreme Court has established itself as the defender of the constitutional rights of minorities in this country that the proponents of antibusing amendments seek to legislate away the Suprme Court's jurisdiction over any case involving the public school system. They seek to place the authority instead in State and local school boards.

However, such amendments run afoul of the two most frequently enforced constitutional principles; that legislative classifications affecting fundamental rights serve some compelling interest and that the enjoyment of constiutional rights cannot be made to turn upon arbitrary decisions. None of the antibusing amendments establish any standards by which a school board would exercise its new power; a decision based upon individual idiosyncrasy or upon the sentiment that black children are inherently inferior, is fully acceptable under each of the amendments.

Above all, let us not delude ourselves into thinking that the forces which have joined to discriminate against school busing have done so based on a concern for education or for the energy crisis, which, according to our President no longer exists. We are talking about a pattern of discrimination which extends beyond the school system. We are talking about the vicious circle of discrimination that permeates our society.

Under the 1954 Supreme Court decision in Brown against the Board of Education, schools supposedly were integrated. But now we find that this was prevented by discrimination in housing. And though the 1968 Civil Rights Act supposedly struck this down, most blacks hold low-paying jobs and cannot afford suburban housing. Theoretically, the law says blacks can hold any job, but job qualifications are determined by education—and around and around we go. In short, the education one receives affects the employment one can obtain and it affects the housing one can afford. And that until now in the North has determined the schools that children attend.

Busing then is basically a spinoff of discrimination in these areas. What we should be about is working toward a solution of these real issues rather than a symptom of their complexities. The solution lies in a determined and all-out attack upon discrimination at every level of society.

Mr. NEDZI. Mr. Chairman, I am pleased to cosponsor the Esch Amendment to the Elementary and Secondary Education Act.

The amendment, which is identical to the antibusing legislation passed in August 1972, is aimed at prohibiting busing for the purpose of achieving racial balance.

The members of the bipartisan group—ESCH, O'HARA, FORD, HUBER—which introduced this amendment in committee are deeply interested in education. This is a most serious and responsible, not frivolous, effort on their part.

As many of us know, arbitrary orders of Federal courts requiring cross-district busing in pursuit of racial balance have created chaos and resistence in every place where the issue has been joined. The threat of such order is enough to seriously unsettle the decent majority of thoughtful, education-minded citizens.

While we in Michigan have confronted this incendiary problem at first hand, the implications are there for every urban-suburban area in the Nation.

It should be obvious that the quality of public education is directly related at least two essential things: First, sound policies; and second, public support.

Cross-district busing in pursuit of racial balance is a bad policy. Such schemes are shortsighted, highly divisive, and and generally lacking in educational, legal, and political good sense.

More than that, it should be acknowledged that the prospect of cross-district busing has withered public support for education. If it is not stopped, severe damage to public education is inevitable.

The thrust of the Esch amendment is to prohibit cross-district busing and to sharply limit the free-wheeling use of busing as a court-ordered tool.

To persist in a bad policy which insures public turmoil and does not, in any event, produce improvement in education is sheer foolishness.

And, let me add, it is a mistake to be trapped by labels, such as "conservative" or "liberal" where this issue is involved. Foolishness is foolishness, regardless of label.

As the sponsors have pointed out, H.R. 13915 passed the House on August 17, 1972, by a vote of 282 to 102.

It is appropriate that the House reaffirm the soundness of that vote now that the identical question is before us.

Mr. DORN. Mr. Chairman, in South Carolina we are proud of our tradition of courtesy, tolerance, and understanding. Our people have provided for the Nation an unsurpassed example in respect for law and good citizenship. We have complied with every court order, every HEW decree. We have gone ahead voluntarily. Through the dedicated efforts of our schoolteachers, administrators and trustees, our students and parents, we have moved into a new day of better education and improved community relations.

I shall vote against the amendment now before the House. This is yet another resurrection of the old antibusing amendments which I have consistently opposed. It is yet another attempt to set up a special arrangement for the northern metropolitan areas. It is yet another attempt to return to the old dual system. Those days are gone forever, Mr. Speaker. We cannot go back.

For the Congress to continue to tack on the so-called antibusing amendments to every conceivable piece of legislation is an exercise in futility. There is simply no way for us to return to the outmoded, outdated, segregated neighborhood school system of the past. No man is an island. Mr. Chairman. No country is an island. And, yes, no neighborhood is an island. Now more than ever we need to promote understanding and high moral values among our young people.

Mr. Chairman, my own children attend the public schools; and they ride the bus. They believe it would be unthinkable to turn back the clock and return to the old days of the outmoded, ill-equipped neighborhood school. The unitary school systems now in operation throughout my district is made possible largely by the busing of pupils to improved consolidated schools. There is no other way our schools can continue to operate and function properly. Mr. Chairman, I urge the House to reject this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON) as a substitute to the amendment offered by the gentleman from Michigan (Mr. ESCH) to the committee substitute.

The amendment as a substitute to the amendment to the committee substitute was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. ESCH) to the committee substitute.

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

RECORDED VOTE

Mr. ESCH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 293, noes 117, not voting 22, as follows:

[Roll No. 115]

AYES—293

Abdnor	Buchanan	Davis, S.C.
Addabbo	Burgener	Davis, Wis.
Alexander	Burke, Fla.	de la Garza
Anderson, Calif.	Burke, Mass.	Delaney
	Burleson, Tex.	Denholm
Andrews, N.C.	Burlison, Mo.	Dennis
Andrews, N. Dak.	Butler	Dent
	Byron	Derwinski
Annunzio	Camp	Devine
Archer	Carney, Ohio	Dickinson
Arends	Carter	Dingell
Armstrong	Casey, Tex.	Donohue
Ashbrook	Chamberlain	Downing
Bafalis	Chappell	Dulski
Baker	Clancy	Duncan
Bauman	Clark	du Pont
Beard	Clausen, Don H.	Edwards, Ala.
Bennett		Eilberg
Bevill	Clawson, Del	Esch
Biaggi	Cleveland	Eshleman
Biester	Cochran	Evins, Tenn.
Blackburn	Collier	Fascell
Boggs	Collins, Tex.	Fisher
Boland	Conlan	Flood
Bowen	Cotter	Flowers
Brasco	Coughlin	Flynt
Bray	Crane	Ford
Breaux	Cronin	Forsythe
Brinkley	Daniel, Dan	Fountain
Brooks	Daniel, Robert W., Jr.	Frey
Broomfield		Froehlich
Brotzman	Daniels, Dominick V.	Fulton
Broyhill, N.C.		Fuqua
Broyhill, Va.	Davis, Ga.	Gaydos

Gettys	McKay	Sarbanes
Giaimo	McSpadden	Satterfield
Gibbons	Macdonald	Scherle
Gilman	Mahon	Schneebeli
Ginn	Mann	Sebelius
Goldwater	Maraziti	Shipley
Goodling	Martin, Nebr.	Shoup
Grasso	Martin, N.C.	Shriver
Gray	Mathias, Calif.	Shuster
Green, Oreg.	Mathis, Ga.	Sisk
Griffiths	Mazzoli	Skubitz
Gross	Michel	Slack
Grover	Milford	Snyder
Gubser	Miller	Spence
Gude	Mills	Stanton,
Gunter	Minish	J. William
Guyer	Mitchell, N.Y.	Stanton,
Haley	Mizell	James V.
Hamilton	Moakley	Steed
Hammer-	Mollohan	Steele
schmidt	Montgomery	Steelman
Hanley	Moorhead,	Steiger, Ariz.
Harsha	Calif.	Stephens
Hastings	Morgan	Stratton
Hays	Murphy, Ill.	Stubblefield
Hébert	Murphy, N.Y.	Stuckey
Heckler, Mass.	Murtha	Sullivan
Heinz	Myers	Symington
Helstoski	Natcher	Symms
Henderson	Nedzi	Talcott
Hillis	Nelsen	Taylor, Mo.
Hinshaw	Nichols	Taylor, N.C.
Hogan	O'Brien	Thomson, Wis.
Holt	O'Hara	Thone
Hosmer	Parris	Thornton
Howard	Passman	Tiernan
Huber	Patten	Towell, Nev.
Hudnut	Pepper	Treen
Hungate	Pettis	Vander Jagt
Hutchinson	Peyser	Vanik
Ichord	Pickle	Veysey
Jarman	Pike	Waggonner
Johnson, Calif.	Poage	Walsh
Johnson, Colo.	Powell, Ohio	Wampler
Johnson, Pa.	Preyer	Ware
Jones, Ala.	Price, Tex.	White
Jones, N.C.	Pritchard	Whitehurst
Jones, Okla.	Quillen	Whitten
Jones, Tenn.	Randall	Widnall
Kazen	Rarick	Wiggins
Kemp	Regula	Wilson, Bob
Ketchum	Rinaldo	Wilson,
King	Roberts	Charles, Tex.
Kuykendall	Robinson, Va.	Winn
Lagomarsino	Roe	Wolff
Landgrebe	Rogers	Wright
Landrum	Rooney, Pa.	Wyatt
Latta	Rose	Wydler
Lent	Roush	Wylie
Litton	Rousselot	Wyman
Long, La.	Roy	Yatron
Long, Md.	Runnels	Young, Alaska
Lott	Ruth	Young, Fla.
Lujan	Ryan	Young, Ill.
Luken	St Germain	Young, S.C.
McCollister	Sandman	Young, Tex.
McDade	Sarasin	Zablocki

NOES—117

Abzug	Findley	Mink
Adams	Fish	Moorhead, Pa.
Anderson, Ill.	Fraser	Mosher
Ashley	Frenzel	Moss
Aspin	Gonzalez	Nix
Badillo	Green, Pa.	Obey
Barrett	Hansen, Idaho	O'Neill
Bell	Harrington	Owens
Bergland	Hawkins	Perkins
Bingham	Hechler, W. Va.	Podell
Bolling	Hicks	Price, Ill.
Brademas	Holifield	Quie
Breckinridge	Holtzman	Railsback
Brown, Calif.	Horton	Rangel
Brown, Mich.	Jordan	Rees
Brown, Ohio	Karth	Reid
Burke, Calif.	Kastenmeier	Reuss
Burton	Koch	Riegle
Chisholm	Kyros	Robison, N.Y.
Clay	Leggett	Rodino
Cohen	Lehman	Roncalio, Wyo.
Collins, Ill.	McClory	Rosenthal
Conable	McCloskey	Rostenkowski
Conte	McCormack	Roybal
Conyers	McEwen	Ruppe
Corman	McFall	Schroeder
Culver	McKinney	Seiberling
Danielson	Madden	Smith, Iowa
Dellenback	Madigan	Smith, N.Y.
Dellums	Mallary	Staggers
Diggs	Matsunaga	Stark
Dorn	Mayne	Steiger, Wis.
Drinan	Meeds	Stokes
Eckhardt	Melcher	Studds
Edwards, Calif.	Metcalfe	Thompson, N.J.
Evans, Colo.	Mezvinsky	Udall
Ullman	Whalen	Yates
Van Deerlin	Wilson,	Young, Ga.
Vander Veen	Charles H.,	Zwach
Waldie	Calif.	

NOT VOTING—22

Blatnik	Hansen, Wash.	Rooney, N.Y.
Carey, N.Y.	Hunt	Sikes
Cederberg	Kluczynski	Teague
Erlenborn	Minshall, Ohio	Vigorito
Foley	Mitchell, Md.	Williams
Frelinghuysen	Patman	Zion
Hanna	Rhodes	
Hanrahan	Roncallo, N.Y.	

So the amendment to the committee substitute was agreed to.

The vote was announced as above recorded.

Mr. RHODES. Mr. Chairman, I would like to express my support for the amendment of the gentleman from Washington (Mr. MEEDS) which was adopted by voice vote. This amendment provides for judicial review of the Commissioner's decision to bypass local education agencies in those cases where the Commissioner has determined that the public local education agency has failed to provide services to the private schools in the district which are educating poor students. This applies to title I funds and funds allocated under the consolidated programs.

No final action can be taken on the Commissioner's decision to bypass the State and local educational agency until 60 days after notice of the proposed action has been served and there has been an opportunity for a hearing. If the State or local educational agency is dissatisfied with the Commissioner's final action after the hearing, it has 60 days to file with the U.S. Court of Appeals. The court would have jurisdiction to affirm the action of the Commissioner, to modify it, or set it aside in whole or part. In turn, judicial review of the lower court ruling would be available up to the U.S. Supreme Court.

The addition of judicial review makes this section consistent with other parts of the bill. It has wide-based support, including backing from such groups as the National Education Association and the U.S. Catholic Conference. I favor the intent of H.R. 69 in attempting to provide facilities and services to disadvantaged students, regardless of where they are enrolled. The inclusion of a judicial review safeguard is desirable, and I am pleased the amendment was adopted.

Mrs. GRASSO. Mr. Chairman, it is imperative that Federal money be given to education.

While large sums of Federal moneys are spent on other programs, education receives a relatively low priority. This is unfortunate, indeed.

The educational systems of our Nation desperately need aid for the educationally disadvantaged. They also have a crying need for general aid.

The intent of title I of the Elementary and Secondary Education Act has been to help local school districts provide programs required by the educationally disadvantaged.

Because appropriations for local education have lagged behind the authorization level contained in the Elementary and Secondary Education Act, it is essential for the Congress to assure that available funds are distributed fairly. Unfortunately, the committee formula fails to assure this fair allocation of title I funds. In fact, if the committee formula remains in H.R. 69, Connecticut and other urban States will be unjustly penalized.

Clearly, the first Peyser formula, which established the $4,000 poverty level and counted all AFDC children, would have improved the committee formula by eliminating the antiurban bias of H.R. 69. I supported the amendment and sincerely regret that it failed.

Other amendments which would have increased Connecticut's share of title I over the committee formula also had my support. Unfortunately, they, too, met defeat in the House today.

Mr. Chairman, I regret that efforts to improve upon the language of title I of the committee bill have thus far failed. Hopefully, the inequities of the formula will be corrected in time to assure that educationally disadvantaged children in Connecticut and elsewhere have the opportunity to share fully in the title I program.

Mr. ALEXANDER. Mr. Chairman, people are Arkansas' greatest resource and the greatest resource of this Nation. Educational programs for the disadvantaged were intended by the Congress to assure that all persons receive quality education and to insure that these persons have a solid start in their efforts to be contributing members of our society.

According to the 1970 census, there were 64,910 families with related children 18 years or younger living in Arkansas. Of these, 38,469 lived in rural Arkansas, the area least able to absorb the costs of special education programs for disadvantaged children.

The First District of Arkansas which I represent has the lowest average per capita income, the highest unemployment rate, and the highest outmigration rate in the State. This is why I am concerned with education—and the educational programs offered under title I of this act. The programs authorized by this act open many doors for the educationally disadvantaged of this country. They help to teach and reinforce the elementary skills of reading and mathematics upon which all later learning is based. Education in turn opens the doors to jobs and trades upon which the entire community can build, thus upgrading and boosting the entire economy of the region.

I do not believe anyone here will argue against the point that we must concentrate our efforts to bring more funding to educationally disadvantaged students. The question now, as it has been in the past, is how to define an educationally disadvantaged child. The members of the Education and Labor Committee have spent many long hours testing various formulas and hearing different theories argued.

Is an educationally disadvantaged child the same as an economically disadvantaged child? Should test scores have anything to do with the distribution of funding? What about the students at large overcrowded understaffed schools, where the lack of individual at-

tention may stunt the growth of even the most intelligent child?

H.R. 69 modernizes the existing title I formula, yet does not make extensive changes. It is more flexible in that it allows local school districts the option of using methods other than poverty for determining economic advantage or disadvantage. Perhaps most importantly, it authorizes the National Institute of Education to conduct a comprehensive review of compensatory education programs and to study alternative methods of distributing compensatory education funds. Such a study will be invaluable to us in the future if we are not to allow ourselves to fall into the rut of basing this funding entirely on the amount of welfare a family receives or on income. We must be concerned with insuring that any child who is encountering difficulties in school—despite his parents economic fortune or misfortune—is given the opportunity and assistance he needs to keep up with his classmates in learning the cognitive skills.

The programs authorized under title I of ESEA as well as under other titles of this bill, have proven of incalculable benefit to children all over Arkansas. Teachers in larger classroom are dependent upon teachers aides to assist in personal attention and instruction. Teachers in small country schools are dependent on these funds to allow them to implement programs that they could not otherwise afford.

Mr. Chairman, I am satisfied that at this time with the facts and figures available, the committee has done its best to come up with a formula that is the most equitable and best serves the needs of educationally disadvantaged children in all 50 States. We need not be glued to it forever. Hopefully the National Institute of Education study will show us a better way. For that is what education is all about—learning and practicing, exchanging old methods and ideas for new and better ones.

Mr. SIKES. Mr. Chairman, the bill we are considering today, H.R. 69, is one of the most important this Congress will consider this year. It touches on the educational life of millions of American children, and the provisions of the bill can help to determine the safe future of our Nation.

I am concerned about a number of aspects of the bill. First, I support the objective of the committee that a formula be enacted which will assure the smaller or less affluent States a greater Federal participation than at present. The present formula apparently does not insure equal educational opportunity to the children of all States. It simply stands to reason that children in States which because of lack of resources or because of statutory limitations cannot help themselves should be helped by others.

After all, most school systems are financed at the State level through property taxes. Property with greater value is expected to pay more tax. It does not always work that way. Even in States with high property values there may be constitutional limitations which prevent tax rates adequate to cope with financing demands for education. There also will be found in some States very large communities of trailers and trailer courts where the residents pay little or no property taxes and thus contribute very little to the cost of educating their own children.

If we start with the premise that children of all States are equally deserving of quality education, it becomes incumbent on this Congress to help the children in those States with less potential for helping themselves. It is the only right and proper thing to do.

Second, I support the amendment by the gentlewoman from Hawaii (Mrs. MINK) seeking to extend the life of the impact aid program for 3 years rather than for 1 year. School systems must plan ahead just as other governmental agencies must plan ahead. Each year, impact aid is the target of those who do not fully understand the importance of this aspect of the law. Year by year impact aid funding has been a hit or miss proposition with the Federal administrators generally seeking lower funding and the Congress striving to maintain current levels of funding. Each year, school systems must plan ahead in the dark, never knowing whether or not this aid is to be forthcoming or if the program will fall victim to other funding demands.

Mrs. MINK's amendment would not treat impact aid in a manner different from other programs. It would, in fact, place this aspect of the bill on the same status as other aspects. I fully support her amendment.

Finally, I support the amendment by Congressman ESCH which seeks to abolish the practice of busing children all over a city or county for no demonstrated purpose other than the achievement of racial balance. The evils of excessive busing are too well known to require further discussion here. The amendment would use busing only as a last resort in securing an equal educational opportunity. This approach makes sense. Busing should not be the first tool of education. It should be a final tool.

Mr. Chairman, as I said earlier, this bill is one of the most important we will consider. We should seek continually to provide a better funding formula whereby children who need improved education will receive it, to continue in a sensible manner the impact aid program and to recognize the use of the schoolbus for what it is, a medium for transporting to the nearest acceptable school. When we do this we will be doing a realistic job for education and for the future of our Nation.

Mr. BADILLO. Mr. Chairman, I rise in support of the amendment offered by my colleague from New York.

Mr. Chairman, I regret that the debate on the Elementary and Secondary Education Amendments of 1974 has degenerated into a scramble to see which of the many formulas offers each Member the most money for his congressional district. Of course every Member is concerned about the Federal dollars available for the education of his constituents. And rightly so.

But, Mr. Chairman, we have lost sight of what this bill is really all about, and that is children. These dollar figures are essentially meaningless unless we translate them into the human beneficiaries at the end of the legislative process by which we will decide how to allocate the money in this program.

Under the committee formula, the majority of school districts in the United States will be able to add children to their eligible rolls. This is well and good. The more youngsters we can bring quality education to, the better. However, let us also not lose sight of the fact that the committee formula also will force many large cities and some smaller counties around the country to drop children who have already begun to benefit from title I programs. That is where our focus should be, not on whether New York gets x number of dollars compared to St. Louis or San Francisco.

Mr. Chairman, some 90,000 children will be dropped from title I compensatory programs in New York City if the formula in H.R. 69 is adopted. Nothing could be crueler on our part to hold out the educational enrichment made possible through ESEA to youngsters in the schools and then, after a few years during which results actually appear in an upturn in citywide reading scores, withdraw funds so drastically that fully one-third of all New York City enrollees in title I programs will receive these benefits no more.

Mr. Chairman, if we could find the will to fully fund the programs authorized by ESEA, we could do the cause of education in this country a great service. But the realities of the underfunding should stimulate us to find a way to continue serving all the children who are presently in title I programs and slowly expand the pool of eligibles as appropriations increase. That in fact was the thrust of the 1970 amendments to this bill in the stipulation that children from families with less than $2,000 in income would continue to be served first as children from families with higher incomes would hopefully be added to the program as funds became available. That 1970 action was fully in accord with the original intent of the 1965 act to provide support for local education agencies in areas with high concentrations of poor children.

The committee formula would undo this effort. While forcing the dropping of thousands of urban children from the program, H.R. 69 would provide dramatic increases in funds for some of the wealthiest counties in the Nation. According to charts placed in the RECORD yesterday, Montgomery County in Maryland would receive about 50 percent more money next year than it is getting for title I programs this year. Fairfax County in Virginia would receive a healthy 33 percent boost, DuPage County in Illinois gains a staggering 67 percent, Howard County in Maryland will more than double its 1974 entitlement, and Waukesha County, Wis., would go up by more than 50 percent. Other affluent counties will gain in the area of 25 to 35 percent over present title I funds.

Mr. Chairman, certainly there are children in those wealthy counties with learning disabilities just as there are in the inner cities. I hope the Congress will

do more for all the students in the country. But I urge my colleagues to remember that when they consider voting for more ESEA funds to flow into their schools that those increases will be at the expense of children in other parts of the country.

If we keep in mind what this program is all about, I believe that we can see the equity and the human component in the gentleman's amendment.

Mr. Chairman, I urge adoption of the amendment.

Mrs. SCHROEDER. Mr. Chairman, I suppose I have as great a personal interest in the subject matter of these amendments as any Member of Congress. Since June 1973, when the Supreme Court decided the case of Keyes against School District No. 1, the district I represent has been faced with the need to devise a remedy for what the court concluded had been at least a decade of unconstitutional discrimination against the 14 percent of its elementary and secondary public school pupils who are black and the 20 percent who are Hispano Americans.

I am supporting the National Educational Opportunities Act amendment to H.R. 69 as the only positive measure this Congress has devised to meet the problems of segregated and substandard education. My colleagues Mr. ANDERSON, Mr. PREYER and Mr. UDALL have worked long and hard to develop this legislation, which gives local communities and their school systems the primary responsibility, along with financial and other incentives, for developing long-range plans for school desegregation, rather than relying on HEW and the courts. Under this proposal, busing could only be implemented as a temporary, last resort measure while less disruptive, long-range desegregation plans are developed.

Although this legislation is far from perfect—for example, I feel that the 10-year time period which States are given to implement their plans is entirely too long—it is a step in the right direction. Congress for too long has failed to provide sensible guidelines and responsible leadership in the field of education and race relations. Instead, we have dumped the total responsibility for dealing with the issue in the laps of the courts.

It is time for the Congress to take the problem in hand and take this first step in setting a positive, comprehensive policy. Up to now the only alternatives that have been offered in Congress have been negatively sweeping proposals such as the other amendment before us today offered by Mr. ESCH, which would totally prohibit busing as a remedy, while offering no positive alternatives for better ways to achieve desegregation. The Supreme Court has wisely recognized that rights and remedies are indivisible. To totally prohibit the remedy when no other adequate relief is available, is to deny the right itself.

Mr. RANGEL. Mr. Chairman, in reviewing the arguments for amending H.R. 69, the Elementary and Secondary Education Act, to curtail integration through busing. I have found the noble goals of equal educational and opportunity for all, wittingly or unwittingly, vilified. The issue here is simple and clearly defined. In order for equal education and opportunity to be a reality, there will have to be extraordinary steps, positive discrimination if you will, in order to offset the long history of inequity imposed on minority groups.

To state that there are other alternatives besides busing to achieve integration of the school is a gross distortion of the realities of American life. Housing patterns have long been maintained to insure segregation of neighborhoods. Some of my colleagues have endorsed the concept of neighborhood schools. But considering that housing segregation is firmly entrenched in the American neighborhood, schools would be segregated. If it was not for the seriousness of the need for educational opportunities for all groups, I would find this specious argument amusing.

Another argument has been made that the busing of children disrupts their social growth because of the lack of a strong community environment. I suppose a strong community environment or "cocoon" implies the exclusion of 20 percent of this Nation's population. I suppose it also implies that the prejudice of parents must be transferred without impedence to their children. I submit that such an argument is merely an apology for the continued domestic isolationism of white communities.

Still another argument has been made that busing, contrary to its aim, has fostered even greater polarization between the races. This may, on the surface, appear to be true, but it must also be realized that busing is not wholely directed at establishing immediate racial harmony. It is instead, intended to sow the seed of peace for future generations of white and minority Americans.

Additional arguments have been raised that local schools should be improved through financial assistance and community involvement. This is, in theory, an acceptable way of providing equal opportunity for all groups. However, in practice it has been proven that inner city schools have received the short end of the stick. Not only are additional funds not forthcoming, but inner city schools have been asked to educate those needing special educational programs with less funds. An adequate education has been proven, by observation, to be accorded to white children only. If integration is the only way that minority children can receive an equal education, then it must be realized to its fullest extent. Busing should be implemented until housing zone laws have been relaxed so that minorities can live in integrated neighborhoods. At that time, the neighborhood school concept could be embraced by "all" of our citizens.

If this Nation is to truly become homogenous, if the diversity of our various racial and ethnic groups is to be accommodated, if we are to realize our potential for greatness, such regressive amendments must be defeated. Congress must in the future, utilize its foresight, and not its hindsight.

Mr. MURPHY of New York. Mr. Chairman, throughout the history of the United States, education has been deemed one of the rights and privileges of each citizen. Education is the foundation of our Nation; from the time of our Pilgrim Fathers, education has been the means to advancement and opportunity, and today it is a guaranteed right of every child in the United States. In the past I have strongly supported legislation to raise the quality and level of education for children in America. I have a continuous record of voting for increased Federal assistance to primary and secondary education. However, today I must speak out against the title I amendment of the Elementary and Secondary Education Amendments of 1974, for the simple reason that it does not provide continued assistance for us to advance our educational system. It would in fact discriminate against the State of New York and result in a decline of the quality of education with which we have struggled for so long to improve. In fact the passage and implementation of title I of this bill, H.R. 69, would create not only a decline in the quality, but it would result in the total deprivation of an education for certain disadvantaged segments of the student population.

The educational system in New York is one of the most progressive systems in the United States. New York is committed to providing quality education to all of our children, and to accomplish this we maintain a much higher ratio of instructional staff to students than anywhere else in the country. In New York the ratio of instructional staff to students exceeds the national average by 25 percent. The ratio of classroom teacher to student exceeds the national average by 18 percent. It should also be noted that Federal moneys account for only 5.4 percent of the total expenditures made in New York for elementary and secondary education. In other States the Federal share of expense can reach up to 25 percent or more.

In 1965, when the House Education and Labor Committee first wrote the Elementary and Secondary Education Act, the main purpose behind title I was to provide substantial Federal assistance to local school districts with high concentrations of low-income families and to help pay the additional costs of providing special programs for educationally disadvantaged children. Title I of H.R. 69 would result in further discrimination against these children. Children from families whose income is below $2,000 already suffer all the disadvantages associated with poverty, but New York is striving to give them the opportunity for advancement through education. Title I of H.R. 69 will further deprive these children of their rights by taking away the much needed moneys that would help provide them with a good education. New York will spend $218 million of Federal funds for the education of needy children for the fiscal year 1974. Under title I of the legislation being considered today, the Federal Government does not provide additional funds to keep up with the increased number of students needing assistance as well as the advancement of inflationary costs of providing education. In fact if title I is enacted into law, it will result in a decrease from last year's appropriation of more than 10 percent for fiscal year 1975.

As a result of this decrease, New York would have to make drastic cutbacks in the number of teachers presently employed within the school system. This would result in a much higher number of students per teacher, and it would affect the entire school program as well as adding a greater burden in New York's efforts to upgrade the educational level in lower income areas. Despite the fact that New York City has the highest population of any city in the United States, our eligible recipients would receive less aid per student than those in other parts of the Nation. New York State, with the second highest number of school age children, is receiving the greatest slash in Federal education funding. We must insure to these children their Constitutional right to an education. The committee's use of the Orshansky "poverty index" would increase the number of children in New York who are eligible for title I funding from 5 million to over 7.7 million. New York does not adequately meet the needs of the children we now serve, and H.R. 69 through title I would reduce even further the limited funds that we now receive.

Although I disagree with the funding schedule provided in title I of H.R. 69, the remaining provisions of the bill go far in improving the quality of education in the United States. The fact that impact aid has been extended for another year eliminates some of the reservations that I have toward this legislation. The amendment to the Adult Education Act by eliminating HEW's authority to withhold moneys adds impetus to the expansion of adult education programs. Community education and education for the handicapped both receive new funds to provide better quality of education. H.R. 69 would expand title VII of ESEA to insure wider distribution of bilingual education aid funds. This would nullify the existing law which only gives funds to those schools with a high concentration of low-income families.

While I feel the strong need for a revision to the title I formula of H.R. 69, I also feel that it is necessary to provide the educational funding that this legislation would extend. I will work hard to find an equitable solution to the problems arising under title I, but the need to preserve continuous funding to education must and shall be the first priority in consideration of this legislation, the "Elementary and Secondary Education Amendments of 1974."

PARLIAMENTARY INQUIRY

Mr. PERKINS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PERKINS. Mr. Chairman, inasmuch as the vote has been announced on the Esch amendment, I would like to make an inquiry as to whether further amendments to title I are in order or will be in order tomorrow when we take up further consideration of this bill?

The CHAIRMAN. In view of the adoption of the Esch amendment, all further action on title I is precluded.

Mr. PERKINS. So when we meet tomorrow we will go into a new title II?

The CHAIRMAN. When the committee resumes sitting tomorrow the Clerk will begin reading on line 19 on page 58.

Mr. PERKINS. I thank the Chairman.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. O'NEILL) having assumed the chair, Mr. PRICE of Illinois, 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. 69) to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on title I and on the Esch amendment.

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

There was no objection.

CONFERENCE REPORT ON S. 2747, FAIR LABOR STANDARDS AMENDMENTS OF 1974

Mr. PERKINS submitted the following conference report and statement on the bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93-953)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, to expand the coverage of the Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act my be cited as the "Fair Labor Standards Amendments of 1974".

(b) Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE RATE FOR EMPLOYEES COVERED BEFORE 1966

SEC. 2. Section 6 (a) (1) is amended to read as follows:

"(1) not less than $2 an hour during the period ending December 31, 1974, not less than $2.10 an hour during the year beginning January 1, 1975, and not less than $2.30 an hour after December 31, 1975, except as otherwise provided in this section;".

INCREASE IN MINIMUM WAGE RATE FOR NONAGRICULTURAL EMPLOYEES COVERED IN 1966 AND 1974

SEC. 3. Section 6(b) is amended (1) by asserting ", title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1974" after "1966", and (2) by striking out paragraphs (1) through (5) and inserting in lieu thereof the following:

"(1) not less than $1.90 an hour during the period ending December 31, 1974,

"(2) not less than $2 an hour during the year beginning January 1, 1975,

"(3) not less than $2.20 an hour during the year beginning January 1, 1976, and

"(4) not less than $2.30 an hour after December 31, 1976."

INCREASE IN MINIMUM WAGE RATE FOR AGRICULTURAL EMPLOYEES

SEC. 4. Section 6(a)(5) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than—

"(A) $1.60 an hour during the period ending December 31, 1974,

"(B) $1.80 an hour during the year beginning January 1, 1975,

"(C) $2 an hour during the year beginning January 1, 1976,

"(D) $2.20 an hour during the year beginning January 1, 1977, and

"(E) $2.30 an hour after December 31, 1977."

INCREASE IN MINIMUM WAGE RATES FOR EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. (a) Section 5 is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section, section 6(c), and section 8 shall not apply with respect to the minimum wage rate of any employee employed in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands, (2) by an establishment which is a hotel, motel, or restaurant, or (3) by any other retail or service establishment which employs such employee primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. The minimum wage rate of such an employee shall be determined under this Act in the same manner as the minimum wage rate for employees employed in a State of the United States is determined under this Act. As used in the preceding sentence, the term 'State' does not include a territory or possession of the United States.".

(b) Effective on the date of the enactment of the Fair Labor Standards Amendments of 1974, subsection (c) of section 6 is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) Except as provided in paragraphs (4) and (5), in the case of any employee who is covered by such a wage order on the date of enactment of the Fair Labor Standards Amendments of 1974 and to whom the rate or rates prescribed by subsection (a) or (b) would otherwise apply, the wage rate applicable to such employee shall be increased as follows:

"(A) Effective on the effective date of the Fair Labor Standards Amendments of 1974, the wage order rate applicable to such employee on the day before such date shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

"(B) Effective on the first day of the second and each subsequent year after such date, the highest wage order rate applicable

to such employees on the date before such first day shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

In the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the increases prescribed by this paragraph shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's) hourly wage rate is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.

"(3) In the case of any employee employed in Puerto Rico or the Virgin Islands to whom this section is made applicable by the amendments made to this Act by the Fair Labor Standards Amendments of 1974, the Secretary shall, as soon as practicable after the date of enactment of the Fair Labor Standards Amendments of 1974, appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, which shall be not less than 60 per centum of the otherwise applicable minimum wage rate in effect under subsection (b) or $1.00 an hour, whichever is greater, to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate recommended by the special industry committee shall (A) be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1974, and (B) except in the case of employees of the government of Puerto Rico or any political subdivision thereof, be increased in accordance with paragraph (2)(B).

"(4)(A) Notwithstanding paragraph (2)(A) or (3), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(A) or (3) of this subsection, shall, on the effective date of the wage increase under paragraph (2)(A) or of the wage rate recommended under paragraph (3), as the case may be, be not less than 60 per centum of the otherwise applicable rate under subsection (a) or (b) or $1.00, whichever is higher.

"(B) Notwithstanding paragraph (2)(B), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(B), shall, on and after the effective date of the first wage increase under paragraph (2)(B), be not less than 60 per centum of the otherwise applicable rate under subsection (a) or (b) or $1.00, whichever is higher.

"(5) If the wage rate of an employee is to be increased under this subsection to a wage rate which equals or is greater than the wage rate under subsection (a) or (b) which, but for paragraph (1) of this subsection, would be applicable to such employee, this subsection shall be inapplicable to such employee and the applicable rate under such subsection shall apply to such employee.

"(6) Each minimum wage rate prescribed by or under paragraph (2) or (3) shall be in effect unless such minimum wage rate has been superseded by a wage order (issued by the Secretary pursuant to the recommendation of a special industry committee convened under section 8) fixing a higher minimum wage rate."

(c)(1) The last sentence of section 8(b) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "except that the committee shall recommend to the Secretary the minimum wage rate prescribed in section 6(a) or 6(b), which would be applicable but for section 6(c), unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years or in the case of employees of public agencies other appropriate information, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage."

(2) The third sentence of section 10(a) is amended by inserting after "modify" the following: "(including provision for the payment of an appropriate minimum wage rate)".

(d) Section 8 is amended (1) by striking out "the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry" in the first sentence of subsection (a) and inserting in lieu thereof "the minimum wage rate which would apply in each such industry under paragraph (1) or (5) of section 6(a) but for section 6(c)", (2) by striking out "the minimum wage rate prescribed in paragraph (1) of section 6(a)" in the last sentence of subsection (a) and inserting in lieu thereof "the otherwise applicable minimum wage rate in effect under paragraph (1) or (5) of section 6(a)", and (3) by striking out "prescribed in paragraph (1) of section 6(a)" in subsection (c) and inserting in lieu thereof "in effect under paragraph (1) or (5) of section 6(a) (as the case may be)".

FEDERAL AND STATE EMPLOYEES

SEC. 6. (a)(1) Section 3(d) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization."

(2) Section 3(e) is amended to read as follows:

"(e)(1) Except as provided in paragraphs (2) and (3), the term 'employee' means any individual employed by an employer.

"(2) In the case of an individual employed by a public agency such term means—

"(A) any individual employed by the Government of the United States—

"(i) as a civilian in the military departments (as defined in section 102 of title 5, United States Code),

"(ii) in any executive agency (as defined in section 105 of such title),

"(iii) in any unit of the legislative or judicial branch of the Government which has positions in the competitive service,

"(iv) in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, or

"(v) in the Library of Congress;

"(B) any individual employed by the United States Postal Service or the Postal Rate Commission; and

"(C) any individual employed by a State, political subdivision of a State, or an interstate governmental agency, other than such an individual—

"(i) who is not subject to the civil service laws of the State, political subdivision, or agency which employs him; and

"(ii) who—

"(I) holds a public elective office of that State, political subdivision, or agency,

"(II) is selected by the holder of such an office to be a member of his personal staff,

"(III) is appointed by such an officeholder to serve on a policymaking level, or

"(IV) who is an immediate adviser to such an officeholder with respect to the constitutional or legal powers of his office.

"(3) For purposes of subsection (u), such term does not include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family.".

(3) Section 3(h) is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(4) Section 3(r) is amended by inserting "or" at the end of paragraph (2) and by inserting after that paragraph the following new paragraph:

"(3) in connection with the activities of a public agency,".

(5) Section 3(s) is amended—

(A) by striking out in the matter preceding paragraph (1) "including employees handling, selling, or otherwise working on goods" and inserting in lieu thereof "or employees handling, selling, or otherwise working on goods or materials",

(B) by striking out "or" at the end of paragraph (3),

(C) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or",

(D) by adding after paragraph (4) the following new paragraph:

"(5) is an activity of a public agency.", and

(E) by adding after the last sentence the following new sentence: "The employees of an enterprise which is a public agency shall for purposes of this subsection be deemed to be employees engaged in commerce, or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce.".

(6) Section 3 is amended by adding after subsection (w) the following:

"(x) 'Public agency' means the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency.".

(b) Section 4 is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to individuals employed in the Library of Congress to provide for the carrying out of the Secretary's functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is authorized to administer the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the Library of Congress, United States Postal Service, Postal Rate Commission, or the Tennessee Valley Authority). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(c)(1)(A) Effective January 1, 1975, section 7 is amended by adding at the end thereof the following new subsection:

"(k) No public agency shall be deemed to have violated subsection (a) with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—

"(1) in a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed 240 hours; or

"(2) in the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the

employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 240 hours bears to 28 days,

compensation at a rate not less than one and one-half times the regular rate at which he is employed."

(B) Effective January 1, 1976, section 7(k) is amended by striking out "240 hours" each place it occurs and inserting in lieu thereof "232 hours".

(C) Effective January 1, 1977, such section is amended by striking out "232 hours" each place it occurs and inserting in lieu thereof "216 hours".

(D) Effective January 1, 1978, such section is amended—

(i) by striking out "exceed 216 hours" in paragraph (1) and inserting in lieu thereof "exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975"; and

(ii) by striking out "as 216 hours bears to 28 days" in paragraph (2) and inserting in lieu thereof "as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1)) bears to 28 days".

(2)(A) Section 13(b) is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or" and by adding after that paragraph the following new paragraph:

"(20) any employee of a public agency who is employed in fire protection or law enforcement activities (including security personnel in correctional institutions);".

(B) Effective January 1, 1975, section 13(b)(20) is amended to read as follows:

"(20) any employee of a public agency who in any workweek is employed in fire protection activities or any employee of a public agency who in any workweek is employed in law enforcement activities including security personnel in correctional institutions), if the public agency employs during the workweek less than 5 employees in fire protection or law enforcement activities, as the case may be; or".

(3) The Secretary of Labor shall in the calendar year beginning January 1, 1976, conduct (A) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in fire protection activities, and (B) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in law enforcement activities (including security personnel in correctional institutions). The Secretary shall publish the results of each such study in the Federal Register.

(d)(1) The second sentence of section 16(b) is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.".

(2)(A) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of paragraph (c) and by inserting in lieu thereof a semicolon and by adding after such paragraph the following:

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938 against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the effective date of the Fair Labor Standards Amendments of 1974, except that such suspension shall not be applicable if in such action judgment has been entered for the defendant on the grounds other than State immunity from Federal jurisdiction.".

(B) Section 11 of such Act is amended by striking out "(b)" after "section 16".

DOMESTIC SERVICE WORKERS

SEC. 7. (a) Section 2(a) is amended by inserting at the end the following new sentence: "That Congress further finds that the employment of persons in domestic service in households affects commerce."

(b)(1) Section 6 is amended by adding after subsection (e) the following new subsection:

"(f) Any employee—

"(1) who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under section 6(b) unless such employee's compensation for such service would not because of section 209(g) of the Social Security Act constitute wages for the purposes of title II of such Act, or

"(2) who in any workweek—

"(A) is employed in domestic service in one or more households, and

"(B) is so employed for more than 8 hours in the aggregate, shall be paid wages for such employment in such workweek at a rate not less than the wage rate in effect under section 6(b)."

(2) Section 7 is amended by adding after the subsection added by section 6(c) of this Act the following new subsection:

"(l) No employer shall employ any employee in domestic service in one or more households for a workweek longer than forty hours unless such employee receives compensation for such employment in accordance with subsection (a)."

(3) Section 13(a) is amended by adding at the end the following new paragraph:

"(15) any employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves (as such terms are defined and delimited by regulations of the Secretary)."

(4) Section 13(b) is amended by adding after the paragraph added by section 6(c) the following new paragraph:

"(21) any employee who is employed in domestic service in a household and who resides in such household; or".

RETAIL AND SERVICE ESTABLISHMENTS

SEC. 8. (a) Effective January 1, 1975, section 13(a)(2) (relating to employees of retail and service establishments) is amended by striking out "$250,000" and inserting in lieu thereof "$225,000".

(b) Effective January 1, 1976, such section is amended by striking out "$225,000" and inserting in lieu thereof "$200,000".

(c) Effective January 1, 1977, such section is amended by striking out "or such establishment has an annual dollar volume of sales which is less than $200,000 (exclusive of excise taxes at the retail level which are separately stated)".

TOBACCO EMPLOYEES

SEC. 9. (a) Section 7 is amended by adding after the subsection added by section 7(b)(2) of this Act the following:

"(m) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

"(1) is employed by such employer—

"(A) to provide services (including stripping and grading) necessary and incidental to the sale at auction of green leaf tobacco of type 11, 12, 13, 14, 21, 22, 23, 24, 31, 35, 36, or 37 (as such types are defined by the Secretary of Agriculture), or in auction sale, buying, handling, stemming, redrying, packing, and storing of such tobacco.

"(B) in auction sale, buying, handling, sorting, grading, packing, or storing green leaf tobacco of type 32 (as such type is defined by the Secretary of Agriculture), or

"(C) in auction sale, buying, handling, stripping, sorting, grading, sizing, packing, or stemming prior to packing, of perishable cigar leaf tobacco of type 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 61, or 62 (as such types are defined by the Secretary of Agriculture); and

"(2) receives for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

An employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section.".

(b)(1) Section 13(a)(14) is repealed.

(2) Section 13(b) is amended by adding after the paragraph added by section 7(b)(4) of this Act the following new paragraph:

"(22) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or".

TELEGRAPH AGENCY EMPLOYEES

SEC. 10. (a) Section 13(a)(11) (relating to telegraph agency employees) is repealed.

(b)(1) Section 13(b) is amended by adding after the paragraph added by section 9(b)(2) of this Act the following new paragraph:

"(23) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under paragraph (2) of subsection (a) with respect to whom the provisions of sections 6 and 7 would not otherwise apply, who is engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed $500 a month, and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(23) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(3) Effective two years after such date, section 13(b)(23) is repealed.

SEAFOOD CANNING AND PROCESSING EMPLOYEES

SEC. 11. (a) Section 13(b)(4) (relating to fish and seafood processing employees) is amended by inserting "who is" after "employee", and by inserting before the semicolon the following: ", and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective one year after the effective

date of the Fair Labor Standards Amendments of 1974, section 13(b)(4) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(c) Effective two years after such date, section 13(b)(4) is repealed.

NURSING HOME EMPLOYEES

SEC. 12. (a) Section 13(b)(8) (insofar as it relates to nursing home employees) is amended by striking out "any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises" and the remainder of that paragraph.

(b) Section 7(j) is amended by inserting after "a hospital" the following: "or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES AND TIPPED EMPLOYEES

SEC. 13. (a) Section 13(b)(8) (insofar as it relates to hotel, motel, and restaurant employees) (as amended by section 12) is amended (1) by striking out "any employee" and inserting in lieu thereof "(A) any employee (other than an employee of a hotel or motel who performs maid or custodial services) who is", (2) by inserting before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less that one and one-half times the regular rate at which he is employed", and (3) by adding after such section the following:

"(B) any employee of a hotel or motel who performs maid or custodial services and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, subparagraphs (A) and (B) of section 13(b)(8) are each amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-six hours".

(c) Effective two years after such date, subparagraph (B) of section 13(b)(8) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(d) Effective three years after such date, subparagraph (B) of section 13(b)(8) is repealed and such section is amended by striking out "(A)".

(e) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this subsection, and (2) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.".

SALESMEN, PARTSMEN, AND MECHANICS

SEC. 14. Section 13(b)(10) (relating to salesmen, partsmen, and mechanics) is amended to read as follows:

"(10)(A) any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers; or

"(B) any salesman primarily engaged in selling trailers, boats, or aircraft, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers; or".

FOOD SERVICE ESTABLISHMENT EMPLOYEES

SEC. 15. (a) Section 13(b)(18) (relating to food service and catering employees) is amended by inserting immediately before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(c) Effective two years after such date, such section is repealed.

BOWLING EMPLOYEES

SEC. 16. (a) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(19) (relating to employees of bowling establishments) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(b) Effective two years after such date, such section is repealed.

SUBSTITUTE PARENTS FOR INSTITUTIONALIZED CHILDREN

SEC. 17. Section 13(b) is amended by inserting after the paragraph added by section 10(b)(1) of this Act the following new paragraph:

"(24) any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, or

"(B) who are enrolled in such institution and reside in residential facilities of the institution,

while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or".

EMPLOYEES OF CONGLOMERATES

SEC. 18. Section 13 is amended by adding at the end thereof the following:

"(g) The exemption from section 6 provided by paragraphs (2) and (6) of subsection (a) of this section shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to, but materially support, the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $10,000,000 (exclusive of excise taxes at the retail level which are separately stated), except that the exemption from section 6 provided by paragraph (2) of subsection (a) of this section shall apply with respect to any establishment described in this subsection which has an annual dollar volume of sales which would permit it to qualify for the exemption provided in paragraph (2) of subsection (a) if it were in an enterprise described in section "(s).".

SEASONAL INDUSTRY EMPLOYEES

SEC. 19. (a) Section 7(c) and 7(d) are each amended—

(1) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks", and

(2) by striking out "fourteen workweeks" and inserting in lieu thereof "ten workweeks".

(b) Section 7(c) is amended by striking out "fifty hours" and inserting in lieu thereof "forty-eight hours".

(c) Effective January 1, 1975, sections 7(c) and 7(d) are each amended—

(1) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks", and

(2) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks".

(d) Effective January 1, 1976, sections 7(c) and 7(d) are each amended—

(1) by striking out "five workweeks" and inserting in lieu thereof "three workweeks", and

(2) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks".

(e) Effective December 31, 1976, sections 7(c) and 7(d) are repealed.

COTTON GINNING AND SUGAR PROCESSING EMPLOYEES

SEC. 20. (a) Section 13(b)(15) is amended to read as follows:

"(15) any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup; or".

(b)(1) Section 13(b) is amended by adding after paragraph (24) the following new paragraph:

"(25) any employee who is engaged in ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year.

"(B) sixty-four hours in any workweek for not more than four workweeks in that year.

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year,

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13(b)(25) is amended—

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year," and inserting in lieu thereof the following: "forty-six hours in any workweek for not more than two workweeks in that year, and

"(E) forty-four hours in any other workweek in that year,".

(3) Effective January 1, 1976, section 13(b)(25) is amended—

(A) by striking out "sixty-six" in subparagraph (A) and inserting in lieu thereof "sixty";

(B) by striking out "sixty" in subparagraph (B) and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" nad inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" in subparagraph (E) and inserting in lieu thereof "forty".

(c)(1) Section 13(b) is amended by adding after paragraph (25) the following new paragraph:

"(26) any employee who is engaged in the processing of sugar beets, sugar beet molasses, or sugarcane into sugar (other than refined sugar) or syrup and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year,

"(B) sixty-four hours in any workweek for not more than four workweeks in that year,

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year,

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13(b)(26) is amended—

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year," and inserting in lieu thereof the following: "forty-six hours in any workweek for not more than two workweeks in that year, and

"(E) forty-four hours in any other workweek in that year,".

(3) Effective January 1, 1976, section 13(b)(26) is amended—

(A) by striking out "sixty-six" in subparagraph (A) and inserting in lieu thereof "sixty";

(B) by striking out "sixty" in subparagraph (B) and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" and inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" in subparagraph (E) and inserting in lieu thereof "forty".

LOCAL TRANSIT EMPLOYEES

SEC. 21. (a) Section 7 is amended by adding after the subsection added by section 9(a) of this Act the following new subsection:

"(n) In the case of an employee of an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment."

(b)(1) Section 13(b)(7) (relating to employees of street, suburban or interurban electric railways, or local trolley or motorbus carriers) is amended by striking out ", if the rates and services of such railway or carrier are subject to regulation by a State or local agency" and inserting in lieu thereof the following: "(regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(3) Effective two years after such date, such section is repealed.

COTTON AND SUGAR SERVICES EMPLOYEES

SEC. 22. Section 13 is amended by adding after the subsection added by section 18 the following:

"(h) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year to any employee who—

"(1) is employed by such employer—

"(A) exclusively to provide services necessary and incidental to the ginning of cotton in an establishment primarily engaged in the ginning of cotton;

"(B) exclusively to provide services necessary and incidental to the receiving, handling, and storing of raw cotton and the compressing of raw cotton when performed at a cotton warehouse or compress-warehouse facility, other than one operated in conjunction with a cotton mill, primarily engaged in storing and compressing;

"(C) exclusively to provide services necessary and incidental to the receiving, handling, storing, and processing of cottonseed in an establishment primarily engaged in the receiving, handling, storing, and processing of cottonseed; or

"(D) exclusively to provide services necessary and incidental to the processing of sugar cane or sugar beets in an establishment primarily engaged in the processing of sugar cane or sugar beets; and

"(2) receives for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

Any employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section or section 7.".

OTHER EXEMPTIONS

SEC. 23. (a)(1) Section 13(a)(9) (relating to motion picture theater employees) is repealed.

(2) Section 13(b) is amended by adding after paragraph (26) the following new paragraph:

"(27) any employee employed by an establishment which is a motion picture theater; or".

(b)(1) Section 13(a)(13) (relating to small logging crews) is repealed.

(2) Section 13(b) is amended by adding after paragraph (27) the following new paragraph:

"(28) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight.".

(c) Section 13(b)(2) (insofar as it relates to pipeline employees) is amended by inserting after "employer" the following: "engaged in the operation of a common carrier by rail and".

EMPLOYMENT OF STUDENTS

SEC. 24. (a) Section 14 is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"SEC. 14. (a) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe.

"(b)(1)(A) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide, in accordance with subparagraph (B), for the employment, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) in retail or service establishments.

"(B) Except as provided in paragraph (4)(B), during any month in which full-time students are to be employed in any retail or service establishment under certificates issued under this subsection the proportion of student hours of employment to the total hours of employment of all employees in such establishment may not exceed—

"(i) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) were covered by this Act before the effective date of the Fair Labor Standards Amendments of 1974—

"(I) the proportion of student hours of employment to the total hours of employment of all employees in such establishment for the corresponding month of the immediately preceding twelve-month period,

"(II) the maximum proportion for any corresponding month of student hours of employment to the total hours of employment of all employees in such establishment applicable to the issuance of certificates under this section at any time before the effective date of the Fair Labor Standards Amendments of 1974 for the employment of students by such employer, or

"(III) a proportion equal to one-tenth of the total hours of employment of all employees in such establishment,

whichever is greater;

"(ii) in the case of retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered for the first time on or after the effective date of the Fair Labor Standards Amendments of 1974—

"(I) the proportion of hours of employment of students in such establishment to the total hours of employment of all employees in such establishment for the corresponding month of the twelve-month period immediately prior to the effective date of such Amendments,

"(II) the proportion of student hours of

employment to the total hours of employment of all employees in such establishment for the corresponding month of the immediately preceding twelve-month period, or

"(III) a proportion equal to one-tenth of the total hours of employment of all employees in such establishment,

whichever is greater; or

"(iii) in the case of a retail or service establishment for which records of student hours worked are not available, the proportion of student hours of employment to the total hours of employment of all employees based on the practice during the immediately preceding twelve-month period in (I) similar establishments of the same employer in the same general metropolitan area in which such establishment is located, (II) similar establishments of the same or nearby communities if such establishment is not in a metropolitan area, or (III) other establishments of the same general character operating in the community or the nearest comparable community.

For purpose of clauses (i), (ii), and (iii) of this subparagraph, the term 'student hours of employment' means hours during which students are employed in a retail or service establishment under certificates issued under this subsection.

"(2) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment, at a wage rate not less than 85 per centum of the wage rate in effect under section 6(a)(5) or not less than $1.30 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) in any occupation in agriculture.

"(3) The Secretary to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment by an institution of higher education, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) who are enrolled in such institution. The Secretary shall by regulation prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this paragraph is applicable.

"(4)(A) A special certificate issued under paragraph (1), (2), or (3) shall provide that the student or students for whom it is issued shall, except during vacation periods, be employed on a part-time basis and not in excess of twenty hours in any workweek.

"(B) If the issuance of a special certificate under paragraph (1) or (2) for an employer will cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, the Secretary may not issue such a special certificate for the employment of a student by such employer unless the Secretary finds employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under paragraph (1) or (2) for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed four—

"(i) the Secretary may issue a special certificate under paragraph (1) or (2) for the employment of a student by such employer if such employer certifies to the Secretary that the employment of such student will not reduce the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection, and

"(ii) in the case of an employer which is a retail or service establishment, subparagraph (B) of paragraph (1) shall not apply with respect to the issuance of special certificates for such employer under such paragraph.

The requirement of this subparagraph shall not apply in the case of the issuance of special certificates under paragraph (3) for the employment of full-time students by institutions of higher education; except that if the Secretary determines that an institution of higher education is employing students under certificates issued under paragraph (3) but in violation of the requirements of that paragraph or of regulations issued thereunder, the requirements of this subparagraph shall apply with respect to the issuance of special certificates under paragraph (3) for the employment of students by such institution.

"(C) No special certificate may be issued under this subsection unless the employer for whom the certificate is to be issued provides evidence satisfactory to the Secretary of the student status of the employees to be employed under such special certificate."

(b) Section 14 is further amended by redesignating subsection (d) as subsection (c) and by adding at the end the following new subsection:

"(d) The Secretary may by regulation or order provide that sections 6 and 7 shall not apply with respect to the employment by any elementary or secondary school of its students if such employment constitutes, as determined under regulations prescribed by the Secretary, an integral part of the regular education program provided by such school and such employment is in accordance with applicable child labor laws."

(c) Section 4(d) is amended by adding at the end thereof the following new sentence: "Such report shall also include a summary of the special certificates issued under section 14(b)."

CHILD LABOR

SEC. 25. (a) Section 12 (relating to child labor) is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulation require employers to obtain from any employee proof of age."

(b) Section 13(c)(1) (relating to child labor in agriculture) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is less than twelve years of age and (i) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or (ii) is employed, with the consent of his parent or person standing in the place of his parent, on a farm, none of the employees of which are (because of section 13(a)(6)(A)) required to be paid at the wage rate prescribed by section 6(a)(5),

"(B) is twelve years or thirteen years of age and (i) such employment is with the consent of his parent or person standing in the place of his parent, or (ii) his parent or such person is employed on the same farm as such employee, or

"(C) is fourteen years of age or older.".

(c) Section 16 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged;

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought for a violation of section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (29 U.S.C. 9a)."

SUITS BY SECRETARY FOR BACK WAGES

SEC. 26. The first three sentences of section 16(c) are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 6 and 7 or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provisions of subsection (b), unless such action is dismissed

without prejudice on motion of the Secretary."

ECONOMIC EFFECTS STUDIES

SEC. 27. Section 4(d) is amended by—

(1) inserting "(1)" immediately after "(d)".

(2) inserting in the second sentence after "minimum wages" the following: "and overtime coverage"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall conduct studies on the justification or lack thereof for each of the special exemptions set forth in section 13 of this Act, and the extent to which such exemptions apply to employees of establishments described in subsection (g) of such section and the economic effects of the application of such exemptions to such employees. The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies conducted under this paragraph not later than January 1, 1976.

"(3) The Secretary shall conduct a continuing study on means to prevent curtailment of employment opportunities for manpower groups which have had historically high incidences of unemployment (such as disadvantaged minorities, youth, elderly, and such other groups as the Secretary may designate). The first report of the results of such study shall be transmitted to the Congress not later than one year after the effective date of the Fair Labor Standards Amendments of 1974. Subsequent reports on such study shall be transmitted to the Congress at two-year intervals after such effective date. Each such report shall include suggestions respecting the Secretary's authority under section 14 of this Act.".

AGE DISCRIMINATION

SEC. 28. (a)(1) The first sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630(b)) is amended by striking out "twenty-five" and inserting in lieu thereof "twenty".

(2) The second sentence of section 11(b) of such Act is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(3) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(4) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy-making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(5) Section 16 of such Act is amended by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".

(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as sections 16 and 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules and regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each department, agency, or unit referred to in subsection (a);

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any person aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law."

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Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
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Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2747) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, to expand the coverage of the Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

INCREASE IN MINIMUM WAGE RATE FOR EMPLOYEES COVERED BEFORE 1966

The Senate bill increased the minimum hourly wage rate of employees covered by the Fair Labor Standards Act of 1938 (hereafter referred to as the "Act") before the amendments made by the Fair Labor Standards Amendments of 1966 as follows: Effective on the effective date of the 1974 Amendments, such wage rate was increased from $1.60 an hour to $2.00 an hour; and effective one year thereafter, such rate was increased from $2.00 an hour to $2.20 an hour.

Under the House amendment the minimum hourly wage rate for such employees was increased as follows: Effective on the effective date of the 1974 Amendments, such wage rate was increased from $1.60 an hour to $2.00 an hour; effective January 1, 1975, such rate was increased from $2.00 an hour to $2.10 an hour; and effective January 1, 1976, such rate was increased to $2.30 an hour.

The Senate receded.

INCREASE IN MINIMUM WAGE RATE FOR NONAGRICULTURAL EMPLOYEES COVERED IN 1966 AND 1974

The Senate bill increased the minimum hourly wage rate applicable to nonagricultural employees first covered by the Act by the 1966 and 1974 Amendments as follows: Effective on the effective date of the 1974 Amendments, such wage rate was increased from $1.60 an hour to $1.80 an hour: effective one year later, such rate was increased from $1.80 an hour to $2.00 an hour; and effective two years after such effective date, such rate was increased from $2.00 an hour to $2.20 an hour.

Under the House amendment the minimum hourly wage rate applicable to such nonagricultural employees was increased as follows: Effective on the effective date of the 1974 Amendments, such wage rate was increased from $1.60 an hour to $1.90 an hour; effective January 1, 1975, such rate was increased from $1.90 an hour to $2.00 an hour; and effective January 1, 1976, such rate was increased from $2.00 an hour to $2.20 an hour; and effective on January 1, 1977, such rate was increased from $2.20 an hour to $2.30 an hour.

The Senate receded.

INCREASE IN MINIMUM WAGE RATE FOR AGRICULTURAL EMPLOYEES

The Senate bill increased the minimum hourly wage rate applicable to agricultural employees as follows: Effective on the effective date of the 1974 Amendments, such wage rate was increased from $1.30 an hour to $1.60 an hour; effective one year after such effective date, such rate was increased from $1.60 an hour to $1.80 an hour; effective two years after such date, such rate was increased from $1.80 an hour to $2.00 an hour; and effective three years from such date, such rate was increased from $2.00 an hour to $2.20 an hour.

The House amendment increased the minimum hourly wage rate applicable to such employees as follows: Effective on the effective date of the 1974 Amendments, such wage rate was increased from $1.30 an hour to $1.60 an hour; effective January 1, 1975, such rate was increased from $1.60 an hour to $1.80 an hour; effective January 1, 1976, such rate was increased from $1.80 an hour to $2.00 an hour; effective January 1, 1977, such rate was increased from $2.00 an hour to $2.20 an hour; and effective January 1, 1978, such rate was increased from $2.20 an hour to $2.30 an hour.

The Senate receded.

OVERTIME EXEMPTION FOR POLICEMEN AND FIREMEN

Under the Senate bill a limited overtime exemption was authorized for policemen and firemen under employer-employee agreements providing a 28-day work period and if during such period such employees receive overtime compensation for employment in excess of—

(1) 192 hours during 1st year from effective date;

(2) 184 hours during 2d year from such date;

(3) 176 hours during 3d year from such date;

(4) 168 hours during 4th year from such date; and

(5) 160 hours thereafter.

The House amendment provided for a complete overtime exemption for policemen and firemen.

The Senate receded with an amendment which provides that firefighters and law enforcement personnel receive overtime compensation for tours of duty in excess of—

(1) 240 hours in a work period of 28 days (60 hours in a work period of 7 days) or in the case of any work period between 7 and 28 days (a proportionate number of hours in such work period) during the year beginning January 1, 1975.

(2) 232 hours in a work period of 28 days (58 hours in a work period of 7 days) or in the case of any work period between 7 and 28 days (a proportionate number of hours in such work period) during the year beginning January 1, 1976; and

(3) 216 hours in a work period of 28 days (54 in a work period of 7 days) or in the case of any work period between 7 and 28 days (a proportionate number of hours in such work period) during the year beginning January 1, 1977, and thereafter, except that if the Secretary finds on the basis of separate studies conducted during the calendar year 1976 of the average duty hours of firefighters and law enforcement personnel that such average duty hours is lower than 216 hours in a work period of 28 days (54 hours in a work period of 7 days) or in the case of any work period between 7 and 28 days (a proportionate number of hours in such work period) in calendar year 1975 then such lower figures shall be effective January 1, 1978, and thereafter.

Public agencies which employ fewer than 5 employees either in firefighting or law enforcement activities are exempt and the duty hours of such employees are not to be calculated in the Secretary's studies of average duty hours.

The conference substitute further provides for averaging duty hours over the work period so long as the work period is no greater than 28 consecutive days. The conference substitute departs from the standard FLSA "hours of work" concept directed primarily at industrial and agricultural occupations and adopts an overtime standard keyed to the length of the tours of duty, thereby reflecting the uniqueness of the firefighting service. The Secretary is directed to adopt regulations implementing these new and unique provisions, including regulations defining what constitutes a tour of duty.

COVERAGE TEST FOR HOUSEHOLD DOMESTIC EMPLOYEES

The Senate bill provided that an employee employed in domestic service in a household would be covered under both minimum wage and overtime unless the employee receives from his employer wages which would not, because of section 209(g) of the Social Security Act, constitute "wages" for purposes of title II of such Act (wages of less than $50 in a calendar quarter).

Under the House amendment such an employee would be covered under minimum wage for any workweek in which such employment is for more than 8 hours in the aggregate. If the employer employs such an employee in domestic service in a household for more than 40 hours in a workweek, the employer would be required to pay the employee overtime compensation.

The conference substitute combines both provisions to establish alternative tests for coverage. The conference substitute retains the exemption for casual babysitters and companions contained in both bills and retains the overtime exemption for "live-in" domestic employees.

The Committee expects the Secretary to immediately undertake a program utilizing all feasible administrative procedures to apprise employers of their responsibilities under the Act and to notify employees of their rights and entitlements under the Act. The Committee further expects the Secretary to seek the assistance of the Social Security Administration and other relevant agencies in this regard.

The Secretary shall also adopt regulations and enforcement procedures to require that employers are reasonably apprised of when their obligation regarding the payment of the minimum wage commences.

EFFECTIVE DATE OF REVISION OF SECTION 13(a)(2) EXEMPTION

The Senate bill reduced the ceiling on annual dollar volume of sales applicable to the minimum wage and overtime exemption of employees of retail-service establishments in section 3(s) enterprises as follows:

(1) Effective Jan. 1, 1975, reduced from $250,000 to $225,000.

(2) Effective Jan. 1, 1976, reduced from $225,000 to $200,000.

Effective Jan. 1, 1977, the exemption for such employees was repealed.

The House amendment provided that such ceiling be reduced as follows:

(1) Effective July 1, 1975, reduced from $250,000 to $225,000.

(2) Effective July 1, 1976, reduced from $225,000 to $200,000.

Effective July 1, 1977, the exemption for such employees was repealed.

The House receded.

STUDENT EMPLOYMENT IN RETAIL AND SERVICE ESTABLISHMENTS

The Senate bill retained the existing law limit on the number of hours students may be employed by a retail or service establishment under certificates authorizing payment of less than the applicable minimum wage. Under the limit the proportion of student hours of employment in any month under certificates to the total hours of employment of all employees in a retail service establishment may not exceed the proportion existing in the establishment for the corresponding month of the year preceding the date of first coverage of its employees under the Act or, if no records or if a new establishment, the proportion existing in similar establishments in the area in the year prior to the 1961 Amendments.

The House amendment eliminated such existing law limits.

The conference substitute revises the existing law limit on the number of hours students may be employed by a retail or service establishment under certificates authorizing payment of less than the applicable minimum wage.

In the case of a retail or service establishment whose employees are covered by the Act before the effective date of the Fair Labor Standards Amendments of 1974, the monthly proportion of certified student hours of employment to total hours of employment in any such establishment may not exceed (A) such proportion in the corresponding month of the preceding twelve-month period, (B) the maximum proportion to which the establishment was ever entitled in corresponding months of preceding years, or (C) one-tenth of the total hours of employment of all employees in the establishment, whichever proportion is greater.

In the case of retail or service establishments whose employees are covered for the first time by the Fair Labor Standards Amendments of 1974, the monthly proportion of certified student hours of employment to total hours of employment in any such establishment may not exceed (A) such proportion in the corresponding month of the preceding twelve-month period, (B) the proportion of hours of employment of students (as distinct from student hours of employment under certificates) in the establishment to the total hours of all employees in the establishment in the corresponding month of the twelve-month period immediately prior to the effective date of the Fair Labor Standards Amendments of 1974, or (C) one-tenth of the total hours of employment of all employees in the establishment, whichever proportion is greater.

In the case of a retail or service establishment for which records of student hours are not available (including those newly established after the effective date of the Fair Labor Standards Amendments of 1974). the monthly proportion of certified student hours of employment to total hours of employment in any such establishment shall be determined according to the practice during the immediately preceding twelve-month period in (A) similar establishments of the same employer in the same general

metropolitan area in which such establishment is located, (B) similar establishments of the same or nearby communities if such establishment is not in the metropolitan area, or (C) other establishments of the same general character operating in the community or the nearest comparable community. Once such an establishment obtains a record of employment data, one of the preceding categories of limitations (whichever is applicable) shall take effect with respect to such establishment.

In determining student hours of employment under certificates for purposes of applying the proportionate limitation described above, the Secretary is to include all student hours of employment under certificates whether or not subject to the pre-certification procedures.

In the case of private institutions of higher learning no prior certification will be required unless such institutions violate the Secretary's requirements.

STUDY

The Senate bill directed the Secretary of Labor to conduct a continuing study on the means to prevent curtailment of employment opportunities among manpower groups which have had historically high incidences of unemployment (such as disadvantaged minorities, youth, elderly, and such other groups as the Secretary may designate). A report of the results of such study shall be transmitted to the Congress one year after the effective date of the 1974 Amendments and thereafter at two-year intervals after such date. Such report shall include suggestions respecting the Secretary's authority under section 14 of the Act.

The House amendment contained no comparable provision.

The House receded.

EFFECTIVE DATE

The Senate bill provided that the amendments made by the bill would take effect on the first day of the first full month which begins after the date of enactment.

The House amendment provided that the amendments made by the bill would take effect on the first day of the second full month which begins after the date of enactment.

The conference substitute provides an effective date of May 1, 1974.

PUERTO RICO AND THE VIRGIN ISLANDS

The committee is aware that industry committees meet throughout a year to recommend increases in relevant wage orders, and further recognizes that such committees are now convened and that others have recently discharged their responsibilities. Acknowledging the inequity involved with mandating across-the-board adjustments in wage orders which have only recently been increased upon recommendation of appropriate industry committees, the committee intends that the Secretary consider such increases in applying the statutory adjustments; that is, that increases recommended within a reasonable time prior to the effective date of the statutory adjustments be compared to the increases required by the bill so that only the greater of the two shall initially apply. For purposes of administration, the committee intends that 3 months be deemed a reasonable time.

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JACK F. KEMP,
RONALD A. SARASIN,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
THOMAS F. EAGLETON,
HAROLD E. HUGHES,
WILLIAM D. HATHAWAY,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

PRESIDENT NIXON'S CURBSTONE DIPLOMACY

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

Mr. CHARLES H. WILSON of California. Mr. Speaker, in his Chicago appearance of March 15, President Nixon "made it perfectly clear" that 1974 was not to be the year of Europe. By implying that we would cut military forces in Europe unless the Common Market countries cooperate with the United States in political and economic areas, Nixon played a trump card that may or may not take the trick.

Since every public utterance of the President of the United States is considered official Government policy, this latest squeeze play is particularly alarming, undermining as it does Nixon's self-proclaimed image as a great statesman. Would he be the darling of the Kremlin at the expense of our longstanding friendship with our European allies?

Suggesting that, if the Common Market countries continue to "gang up against the United States," he may cancel plans to go to Europe next month to sign two declarations of principles in connection with the 25th anniversary of the North Atlantic Treaty Organization, Mr. Nixon's remarks provoked widespread bewilderment in Europe on just why a joint declaration of principles should so raise our President's blood pressure. The reaction in France was particularly vitriolic as the newspaper Le Monde wrote that—

> Mr. Nixon . . . makes one think he's not in control of himself.

Every time our President addresses the Nation, he calls ample attention to his so-called achievements in the delicate area of foreign policy. But what an ironic accomplishment it is to forge a tenuous détente with the Communists at the expense of those allies upon whom we have spent billions of dollars to strengthen against the threat of communism. In the Middle East, we have created another curious stalemate. The Arabs are friendly to us only because we have allowed them to triple the cost of fuel oil exported to the United States while it is difficult to tell at present just how we are regarded by Israel.

Because of his impulsive attack against Europe, President Nixon has precipitated a showdown which may well backfire. By forcing Europe's hand, Mr. Nixon is roadblocking cooperation on specific issues.

The United States and Europe share a valued community of interest, both culturally and psychologically, which is now under stress. Admittedly, our military support of Europe depends upon political and economic cooperation, yet President Nixon's blunt manner of accentuating this basic fact of international life jeopardizes cordial relations with our allies.

In throwing down the gauntlet, President Nixon has engaged the United States and Europe in a battle of wills. Instead of pushing forward on the diplomatic front, an area in which the President never fails to claim his superiority, his latest maneuver moves us backward. Handing Russia the wheat deal while giving Europe the back of our hand is surely an erratic and dangerous way to conduct American foreign policy.

JANE FONDA SHOULD BE PROSECUTED

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

Mr. HUBER. Mr. Speaker, at the time of the gentleman from Alabama's (Mr. DICKINSON) special order last week to examine the activities of Jane Fonda, I was, regretfully, unable to be present. I salute my distinguished colleague for focusing attention on the activities of this un-American girl.

At this late date, I have the special advantage of the statements and evidence provided by my colleagues. That together with other evidence and her own recent statements, shows a pattern of disloyal behavior that should outrage every loyal American.

Jane Fonda contributed to the anguish, pain, and suffering of the Americans who had the patriotic commitment to fight for their country and were unfortunate enough to be POW's. Fonda and Hayden, and their apologists, take cover behind the claim of free speech. In their particular exercise of that very important right, however, they have forsaken all sense of responsible citizenship incumbent upon free people.

But Jane Fonda has done far more.

Examined from the evidentiary focus of a grand jury, the testimony of my colleagues establishes sufficient factual allegations to support indictments against Jane Fonda on the ground of conspiracy and under the Sedition Act (18 U.S.C. 2387).

The record shows that Jane Fonda went to Hanoi, broadcast messages to our troops urging them to mutiny and refuse further duty. Mutiny is an illegal act and moreover, urging the commission of an illegal act is an illegal act.

As is well known, the Communists would never permit an American to use their radio without knowing, in advance, that such Americans were going to somehow say things that would aid and abet their cause. Any appearance on radio Hanoi would, therefore, necessarily be the result of prior contact and therein lies the conspiracy.

Section 2387 of title 18 of the United States Code states that—

> Whoever, with intent to interfere with, impair, or influence the loyalty, morale or discipline of the military . . . forces of the United States, advises, counsels, urges, or in

any manner causes or attempts to cause insurrection, disloyalty, mutiny or refusal of duty by any member of the military . . . shall be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

I am requesting the Attorney General to further investigate this matter with a view toward bringing Ms. Fonda and the appropriate charges before a grand jury, and I ask my colleagues, particularly those who participated in this special order, to join me in that request.

BADILLO TO ASK FOR PUBLIC/PRIVATE PARTNERSHIP IN OIL INDUSTRY

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

Mr. BADILLO. Mr. Speaker, the clearest lesson to emerge from the energy crisis is the necessity for continuing Government involvement in all the activities of the industry that controls the fuel so vital to the country's well-being.

The energy bills we have passed to date are only stopgap measures designed to deal with a short-term crisis. The question we must deliberate now is the role of the Government over the longer term to insure that the public interest is never again subordinated to the private goals of an industry with such a pervasive impact on our lives.

Proposals with varying degrees of Government intervention can be placed in four general categories: First. continued private ownership of the oil industry with increased Government controls and regulations: second, making the oil industry a public utility; third, outright public ownership and operation, either on an industrywide basis or through a Federal corporation; and fourth, creation of a public/private partnership with the Federal Government owning 51 percent of the enterprise.

Establishing an agency to write rules and regulations for the oil industry will not be sufficient to guarantee the availability of future supplies, a fair price structure, or equitable distribution when resources are limited. The record of Government regulatory agencies—staffed as they customarily are with personnel from the industry being regulated—is not studded with examples of the public interest taking precedence over the protection of private business interests.

The public utility concept fails on the same grounds. Utilities are run on a cost-plus basis, with management policies directed toward benefits from the shareholders to the neglect of public service. We have examples all around us of the constant clash between utilities and the interests of the people and the communities they are ostensibly serving.

The third alternative, nationalization, is not politically realistic at this time. Nor would the establishment of a Government corporation as a "yardstick" for the industry achieve what should be a major goal—assurance of future supplies for the many sectors of society dependent on petroleum.

I believe that the national interest would best be served by creation of a public/private partnership in the oil industry, with the American people—through the Federal Government—holding a controlling interest. With the public as majority shareholder and with its representatives sitting on the boards of directors with the majority of the votes, we can reasonably anticipate that there will be in the future no contrived shortages, no excessive profiteering, no secret deals with foreign governments, and no private monopoly in control of the energy resources so crucial to the health of our economy and the course of our daily lives.

With public participation in decisionmaking, we can hopefully guarantee highest priority for development of new reserves, the establishment of a fair and rational price structure, equitable allocation of available resources on a nationwide basis and a reasonable return to the Treasury from earnings gained by extraction of natural resources, so many of which are found on public lands.

Governments around the world are moving into energy policy. It is clear that our own national interest cannot be best represented by private industry in negotiations with foreign governments. It is also time to reverse the political equation that has enabled the oil industry to write its own tax laws, raise prices without relation to costs, and in general subordinate the welfare of the American people to its single-minded pursuit of escalating profits.

I have, therefore, directed my staff to prepare legislation to authorize the creation of such a public/private partnership. Over the past few months we have learned how vulnerable we are to the activities of one highly centralized industry. A new public role in oil is required so that we may insure the predominance of the national interest over the balance sheets of one sector of the economy.

THE ADMINISTRATOR OF THE VETERANS' ADMINISTRATION SHOULD RESIGN

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

Mr. WALDIE. Mr. Speaker, a few weeks ago in California a group of disabled veterans of the Vietnam war, mostly confined to wheelchairs, were troubled by the lack of care and attention they were receiving in a veterans' hospital at Long Beach, and they asked the Administrator of the Veterans' Administration, Mr. Donald Johnson, to meet with them so that they could present their grievances. He reluctantly and belatedly appeared in California at the building in which they were meeting with Senator CRANSTON, but he was three floors away from Senator CRANSTON's office, and at their request that he come down to Senator CRANSTON's office, he refused. He arrogantly demanded that in deference to his position as a high official that they go up three floors in their wheelchairs. The disabled veterans did not think that was proper. Mr. Johnson then went back to Washington refusing to meet with these disabled young men.

Yesterday he again came back to California because of the public outcry over this outrageous treatment of disabled veterans, and he met with these veterans. I attended as an observer at that meeting. The Director of Veterans' Affairs was sitting on one side of the desk, and on the other side were three young severely disabled veterans in wheelchairs led by Ron Kovic, presenting with dignity and poise their description of how they were mistreated in the hospitals of the Veterans' Administration. Behind the Veterans' Administrator were three security guards to allegedly protect him and his safety and security from assault by these three young disabled veterans in their wheelchairs.

I have never seen such hostility; I have rarely seen such fear; I have never seen such lack of understanding and compassion on the part of a high Federal official than Mr. Johnson displayed in that instance.

Mr. Speaker, I think Mr. Donald Johnson ought to resign. There is no way that he can understand and deal with the problems of veterans when he exhibits not only hostility and lack of compassion toward them but also, incredibly, fear—yes, fear of these young disabled Americans. Fear so unreasoning that he need surround himself with security men when he visits a veterans' hospital.

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

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

Mr. TALCOTT. I thank the gentleman for yielding.

Was one of the men Mr. Michael Dennis Inglett? If so, he was disabled in an armed robbery, and if I were Mr. Johnson, I would want to have security. This fellow was not disabled in Vietnam, but participated in the "sit-in" in Senator CRANSTON's office under the guise of being bona fide veteran with a service-connected disability.

There may be another side to the story told to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, I will not yield further. Any individual fearful of disabled young veterans in wheelchairs in a public meeting in a veterans hospital has distinct problems of his own for which he deserves sympathy, perhaps, but not continuation in office. Mr. Johnson ought to resign.

MAJORITY RULE OR DISCRETIONARY RULINGS?

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

Mr. BAUMAN. Mr. Speaker, finally today, Tuesday, March 26, 1974, the House is ready to consider H.R. 69—the Elementary and Secondary Education Act. I only hope that every single Member of this distinguished body has had the opportunity to realize the parliamentary steps we have traced to reach this point. While the rules of the House and their application may make dull reading, their impact on the issues can

be substantial as I suspect we will see in the next few days of debate.

On March 12, 1974, the House passed House Resolution 963, an unusual special order reported from the Committee on Rules, providing for the consideration of the bill H.R. 69, the Elementary and Secondary Education Act. The rule provided that "three legislative days after the conclusion of general debate—the bill shall be read for amendment under the five-minute rule." The House agreed to this rule on a recorded vote and there were—yeas 234, nays 163, and not voting 34. I voted against the rule.

Two days after the adoption of House Resolution 963, the chairman of the Committee on Education and Labor (Mr. PERKINS) asked unanimous consent that further consideration of H.R. 69 be postponed until today, Tuesday, March 26, 1974. That request was entirely within the rules of the House, and the making of such a unanimous-consent request to consider the bill at a later time implied a setting aside of the order of business—Hinds Precedents, volume IV, section 3059.

The request of the gentleman from Kentucky (Mr. PERKINS) was objected to. But the Chair further entertained another unanimous-consent request to postpone consideration once again by the Chairman, and later when renewed by still another Member. On the day that these requests were made the Chair itself declared the House would consider the bill "on Tuesday, March 19, as is required under the rule"—RECORD, 6821, March 14, 1974. On that same day, the majority leader (Mr. O'NEILL) stated that—

> Under the rule adopted Tuesday, March 12, the Elementary and Secondary Education Act, H.R. 69, must come up on Tuesday next, March 19.

It is a fact that the House, by majority vote on March 12, agreed to House Resolution 963 which provided that we would again consider H.R. 69—"three legislative days after the conclusion of general debate." This specific provision of the rule must be interpreted literally—Cannon's Precedents, volume VII, section 794—and without regard to practicability—Cannon's, volume VII, section 779—and would supersede rules with which it may be in conflict, but it is subject to strictest construction—Cannon's, volume VII, section 780.

In defending a prior ruling on the literal interpretation of a rule, Representative Edwin Webb of North Carolina, Chairman of the Committee of the Whole House, said:

> It does seem to the Chair that the House must be presumed to have known what it was doing, and that it knew.

This gentleman from Maryland must also assume that the House, including the majority leader (Mr. O'NEILL) and the chairman of the Committee on Education and Labor (Mr. PERKINS) all knew what they were doing when they supported the rule under which we are now laboring.

What are we to conclude when we see the House entertaining unanimous-consent requests for postponement? "The question has been fought out again and again and is well settled that the Committee on Rules can bring in a rule providing for the order of business in the House—Hinds, volume IV, section 3169." The House worked its will and had already decided the order of business on H.R. 69 by majority vote on March 12.

In spite of this, on March 14 the Chair declared that:

> The provisions of House Resolution 693 do not necessarily require that H.R. 69 be read for amendment on Tuesday, March 19th. (RECORD 6984, March 18, 1974).

In making this ruling the Chair had apparently changed its mind and declared that the provisions of House Resolution 693 were now not mandatory as to the order of business; and as authority the Chair's interpretation was said to be consistent "with procedures contemplated in other resolutions reported from the Committee on Rules," a rather nebulous source. In examining the provisions of the rule the Chair further recalled the debate on the rule and what the managers of the rule thought it meant. But the rule as adopted did not mean "at least 3 days" and that was not the language the House agreed to. If the Rules Committee had wanted the looser interpretation as to the order of business they could have easily added the words "at least" and the House would have considered it.

I must say that I sympathize with the precedent established when the late Speaker Frederick Gillett of Massachusetts spoke of a rule:

> Which the House adopted in full light of the conditions—the Chair does not think it is within the province of the Chair to invalidate a rule which the House has just passed—to nullify what the House has just adopted with its eyes open. (Cannon, Vol. VII, Sec. 772).

The House by majority vote had decided the order of business and under our rules—"all questions relating to the priority of business shall be decided by a majority without debate."—Hinds, volume IV, section 3061. The unanimous consent requests to postpone were a proper method by which we might postpone consideration of an established order of business. A motion to postpone consideration of the bill either to a day certain, or indefinitely, also properly would have been in order. The motion to postpone indefinitely is debatable and opens to debate all the merits of the question—Hinds, volume V, section 5316—while the motion to postpone to a day certain is debatable with narrow limits only—Hinds, volume V, section 5309, 5310—being confined to the advisability of postponement—Cannons, volume VII, sections 2372, 2615, 2617, 2640—and does not admit debate on the merits of the questions—Hinds, volume V, sections 5311, 5315. The available precedents on this matter should have prevented the persistent renewals of unanimous consent requests for postponement as "neither motion to postpone, having been once decided, is again in order on the same day, at the same stage of the question."

Mr. Speaker, the House does have clearly defined precedents on the issue of postponement and I feel it is the responsibility of this House to observe these rules of procedure. In the past it has been established that "a bill which comes before the House by terms of a special order assigning the day for its consideration may be postponed by a majority vote." Hinds, volume IV, section 3177.

I do not feel that the Chair has "discretionary authority" to interpret formal rules adopted by the House when the language of the rule is already clear. Once the House has by majority vote decided on an order of business, any further question as to whether that order should be adhered to or not should be submitted to the House to decide.

I will conclude my observations as to why this House should follow the established rules and order of business by sharing with you the words with which Thomas Jefferson began his Manual on Parliamentary Procedure:

> It is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapon by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted.

While it may seem of little more than esoteric value to most Members, proper application of the rules of the House can, and often does, make a crucial difference in the final form in which our national policy questions are settled, if at all.

BOILERMAKERS OF PURDUE NIT CHAMPIONS

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

Mr. LANDGREBE. Mr. Speaker, now that the 1973–74 college basketball season has drawn to a close, I would like to bring to the attention of my colleagues and all Americans the tremendous accomplishments of the National Invitational Tournament champions, the Purdue University Boilermakers of West Lafayette, Ind.

I am extremely proud to represent the district in which this great university is located and I would like to salute university president, Dr. Arthur Hansen, athletic director, George King, and head basketball coach Fred Shaus, not just because of the fact that Purdue became the first team in the Big Ten ever to win the NIT, but because all of these men and many more like them have combined their talents and efforts in creating an atmosphere at Purdue which attracts the best in athletic talent as well as the best in academic ability.

But, most of all, Mr. Speaker, I wish to salute the young men who make up the Boilermaker squad—young men who are a credit to their university, the State of Indiana, their families, their teachers, and their communities. These young men reached the top through hard work and personal sacrifice. They were up and down during the regular season, having both disappointing losses and sterling triumphs. But, when the NIT champion-

ship was on the line, they had what it takes to be real champions, hustle, desire and a will to win.

I would like to take note, Mr. Speaker, that of the three major basketball championships on the university level this year, schools representing Indiana won two, and of the third four young men from the Hoosier State helped comprise the winning team—proving the Hoosier theory that the best basketball in the world is played in Indiana. We are proud of them all, and we in the second district are particularly proud of the National Invitational Tournament champion Purdue Boilermakers.

SCRANTON BUSINESS AND PROFESSIONAL WOMEN'S CLUB

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 10 minutes.

Mr. McDADE. Mr. Speaker, when the 20th century is viewed by historians in the distant future, there will be a wealth of astonishing and significant developments which they will study with immense interest. Certainly one of the extraordinary developments of this century has been the emergence of women from a life that was almost totally centered around the family into a new life of full participation in the development of the total society of the world. We have seen, in ever-growing numbers, the names of great women in the arts, in the sciences, in the world of letters, in the world of politics, in the world of commerce.

Outstanding in the promotion of this vigorous partcipation of women in the life of America have been the Business and Professional Women's Clubs. In northeastern Pennsylvania, certainly one of the bright lights in this field has been the Scranton Business and Professional Women's Club, which has completed 50 years of life in that community.

As we noted in a program celebrating those 50 years of growth, it all began in 1923 as an organization named the Scranton Branch of the National Women's Association of Commerce. The members were interested in the advancement of women in business and the professions. When they learned that such an organization called the National Federation of Business and Professional Women's Clubs, Inc., had already been organized in St. Louis in 1919, they decided to become affiliated with it.

On March 23, 1923, they voted to merge with the Pennsylvania State Federation and become part of the National Federation. On June 15, 1923, they received their charter, No. 417, and 30 prominent business and professional women in Scranton became charter members.

Through the years, the Scranton Club has grown and prospered. It has supported qualified women for policymaking posts in government and has given generously to charitable institutions throughout the area. This is all done in addition to the projects sponsored by the Pennsylvania Federation and National Federation. A special project is undertaken every year and the proceeds of the affair are given to a worthy organization voted upon by the membership.

The membership of the Scranton Club today totals 121 women from almost every profession and in all walks of business.

The club has been honored through the years by having several of its members serve on the district and State levels. Currently, Mrs. Betty S. Brown, past president and district director, is finishing out her first term as first vice president of the Pennsylvania Federation and has been endorsed by her club for a second term at the State convention to be held in Pittsburgh in May. Mrs. Anne G. Shindel, second vice president, is serving as legislation chairman of district VIII.

One of the outstanding features to commemorate the 50th milestone of the Scranton Club will be the presentation of a $1,000 check to the endowment fund of the National Foundation. This fund is available to any woman who desires to further her education and to assist her in advancing in her present position. Mrs. Irene Zurine, president, will present the check to Mrs. Lenora Cross, Washington D.C., who is executive director of the National Federation.

I would like to pay my own personal tribute to the women who comprise the Scranton Business and Professional Women's Club. They represent, in northeastern Pennsylvania, a significant force in the use of the immense talents of women in a society which needs to use all the talents available. I would particularly salute the women who participated in the program commemorating the 50th anniversary: Miss Edith Reynolds, Mrs. Irene Zurine, Mrs. Ruth Jones, Miss Julia Robinson, Miss Rita Prescott, Lenora Cross, Mrs. Betty Brown, and the distinguished speaker of the evening, the Honorable Virginia R. Allen, Deputy Assistant Secretary of State for Public Affairs.

H.R. 13720: MEDICARE LONG-TERM CARE ACT OF 1974

The SPEAKER per tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 5 minutes.

Mr. CONABLE. Mr. Speaker, today I have introduced H.R. 13720, the Medicare Long-Term Care Act of 1974. This proposal will establish a new program of long-term care of the elderly that will provide alternatives to expensive and confining medical care by expanding the options available. By including services as well as institutional medical care in the program, we can offer our elderly citizens who need it a more secure and less worrisome future, less family strain, and less demands on their savings.

The resources of older people can be wiped out by a long stay in a nursing home since neither medicare nor private insurance covers long-term care. The only program that does provide some funds is medicaid—the program of health care for the poor.

In too many cases what we are doing today amounts to incarceration, rather than considerate care, because too great a reliance is put on placing people in institutions when many of them could be cared for better in other surroundings, including their own homes. That is why the emphasis of the bill I have introduced today is on care in the home or on an outpatient basis. This proposal calls for a system of community long-term care centers in every area of the country to coordinate and direct long-term care services for the elderly, including homemaker, health, nutrition, and day care, as well as institutional care.

In the past efforts to secure assistance for older Americans have not been successful mainly for three reasons. First, we do not have an effective and rational method of meeting the costs of long-term care services, including institutional care when it is required. Older people with chronic conditions have been left to their own devices because the costs to any public program of institutionalized care are prohibitive. So we have resisted program involvement and we have developed a defeatist attitude toward one of society's most vexing problems.

Second, a great majority of our communities do not have available the types of services which are better alternatives to institutionalization.

And third, in most communities, no single person or agency, public or private, takes full responsibility for helping older people and their families meet their needs as health and family status changes.

I have deliberately constructed H.R. 13279 to deal directly with these problems. My bill is modeled on the medicare program and would meet the first problem by establishing a new program under medicare which would provide protection against the costs of long-term care, both institutional and noninstitutional, without concern about drawing an arbitrary and unnecessary line between health care services and nonhealth care services.

The bill would meet the second problem, the lack of adequate community services, in several ways. First, the benefits covered by the bill would include services which can be alternatives to institutionalization. Provision of these services can help people in their own homes or other family settings. Second, the bill would require that placement in an institution could occur only after all other avenues have been explored. And third, even when placement in a nursing home has been designated as the only possible alternative the patient will have a continuing opportunity to move out of the home or improve his situation in the home.

And finally, my bill would meet the third problem by creating for every community a long-term care center which would act as the coordinator and paying agency for long-term care services. Whenever a question arose in a family about what to do about a change in health or family situation, the center would be responsible for helping find the best answer and for providing the needed services, after careful consultation with the individual and his or her family.

The bill contains certain other features I would like to highlight.

While the program would be national in application, just like medicare now, the administration of the program would be decentralized and involve, on a local basis, the people who are to be served by the program. Specifically, a new State agency would be established which would divide up the State geographically, assure the establishment of a community long-term care center in each area, approve such centers for participation in the program, and pay the centers for services furnished.

The community long-term care center would be required to have a governing board with at least half of its members from among persons who are eligible for benefits. In addition, one-quarter of the board would be elected by eligible people in the area and one-quarter appointed by officials of local government.

The program would be financed by a $3 premium paid by those aged who choose to enroll in the program, by a contribution from States of 10 percent of program costs with the balance from Federal general revenues. My bill would increase by $3 the amount of SSI benefits to everyone receiving them so the program will represent no additional cost to these individuals.

No estimates of the cost of the bill have been made, largely because making estimates in this area is very difficult. However, the States and the Federal Government now pay more than $4 billion a year for nursing home care under the medicaid program. Medicare pays an additional several hundred million dollars for extended care services. Numerous studies have shown that large numbers of older people now in nursing homes do not need to be there, particularly if realistic alternatives are available. Thus, I think it is fair to conclude that under my bill the costs of institutional care would be held in check.

But regardless of how the costs might turn out, the important point is that we need to rationalize the system of providing long-term care and I believe my bill has the potential to do that with possibly no increase in overall costs.

An outline of H.R. 13720 is attached. I urge Members, people with special interest in the aging, and the general public to study the bill carefully. I have introduced this bill so that this subject will get the attention it deserves in a rapidly aging society. I am hopeful that hearings can be held on the bill so that it can be fully explored.

The information follows:

H.R. 13720, MEDICARE LONG-TERM CARE ACT OF 1974, INTRODUCED BY THE HONORABLE BARBER B. CONABLE, JR.

1. Brief Description: Amends the Medicare program by adding a new voluntary Part D to Title 18 of the Social Security Act which would:

Establish a comprehensive program of long-term care services available to those who enroll under the program;

Provide for the creation of community long-term care centers in all areas of the nation and State long-term care agencies as part of a new administrative structure for the organization and delivery of long-term care services; and

Provide a significant role for people eligible for long-term care benefits in the administration of the program.

2. Eligibility: Anyone who is (1) eligible for hospital insurance under Part A of Medicare (aged or disabled), or (2) is age 65 and a resident, or (3) is eligible for supplemental security income (SSI) benefits is eligible to enroll under the new program if he has also enrolled under the Part B medical insurance part of Medicare. Enrollment procedures are similar to those which now apply to the Part B program.

Premiums of $3 a month would be collected just as Part B premiums are now collected.

3. Financing: A Federal Long-Term Care Trust Fund would be established to handle the financial operations of the program.

The Trust Fund would receive its monies from the $3 premiums of those who enroll, 10% from the States and the balance from Federal general revenues.

4. Functions of Community Long-Term Centers: Provide directly or through arrangements covered items and services to each individual residing in the area who is eligible;

Provide evaluation and certify the long-term needs of individuals through a team approach involving the individual and his family;

Maintain a continuous relationship with individuals receiving any items or services; and

Provide an organized system for making its existence and location (which must be accessible in the community) known to the individuals in the service area.

In carrying out the above, a community long-term care center shall not certify the need for inpatient institutional services for an individual unless a determination has been made that the needs of such individual cannot be met through covered types of care or other community resources.

5. State Long-Term Care Agency: Each State must establish an agency—either a separate agency, or major division of the health department—which will:

Designate service areas in the State;

Certify the conditions of participation for a community long-term care center;

Promote and assist in the organization of new community long-term care centers in areas where they do not exist; and make payments to and monitor the activities of all long-term care centers in the State; and

Provide local government offices where a nonprofit agency does not exist.

6. Conditions of Participation for Community Long-Term Care Centers: Community Long-Term Care Centers must:

Have policies, established by a group of professional personnel and approved by the governing board;

Maintain medical and other records on all beneficiaries;

Have an overall plan and budget;

Meet other conditions the Secretary may prescribe; and

Be either a public or non-profit organization.

The governing board of a community long-term care center must be composed as follows: one-half of people covered under the program who reside in its service area; at least one-quarter have been elected by the people covered under the program; and at least one-quarter appointed by locally elected government officials.

Members can serve only two terms and full membership must change at least every six years.

7. Detailed Definitions of Covered Services:

a. Nutrition Services.

Limited to meals on wheels and similar programs and services provided in the place of residence of such individual by a nutritionist.

b. Homemaker Services.

Services provided in the home designed to maintain the individual in his home.

Preparing and serving meals in the home of an individual.

c. Institutional Services

Extended care benefits in a skilled nursing facility (same as social security definition)

Intermediate care services

Institutional day care services

d. Home Health Services (Same as under present Medicare program.)

e. Day Care and Foster Home Care Services

Care provided on a regular daily basis in a place other than the individual's home; and

Placement of individual on a full-time basis in a family setting.

f. Community Mental Health Center Outpatient Services

8. Payment Method for Community Long-Term Care Centers:

Secretary will develop prospective payment methods after consultation with states and other interested parties, and States will follow them in paying the community long-term care centers.

9. Miscellaneous Provisions:

If an individual stays in a nursing home for more than 6 months, beginning with the 7th month his social security cash benefits are reduced by ⅔ (in recognition of such a person's reduced living costs) and the ⅔ is deposited in the long term care trust fund. As soon as the recipient leaves the nursing home, full benefits are restored immediately.

The bill would increase SSI benefits by $3 a month so that the premium payment could be met without a reduction in cash income.

10. Effective date:

Benefits would first become payable on July 1, 1976, thus allowing sufficient time for the organization of the new system.

REPRESENTATIVE JACK KEMP INTRODUCES LEGISLATION TO PREVENT INVASIONS OF PRIVACY BY THE USE OF MAIL COVERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, on some issues before this House, there must be no retreat from our resolve. The insuring of adequate safeguards to protect the individual's right to privacy is such an issue. When liberty is threatened, no measure is adequate, unless it guarantees the protection of that liberty.

The right to privacy is the right to be let alone—the right to be left alone. It is a right which forms the basis for such protections as those shielding the individual against unwarranted searches and seizures, electronic surveillance, snooping investigations and "fishing expeditions" by authorities, the inspection of personal papers, records, and effects. Much of our Bill of Rights—our first 10 amendments to the Constitution—is predicated upon this right to privacy, this right to be protected against intrusions from government and other people.

Support for the individual's right to privacy is a feeling which runs deeply in the spirit of our Anglo-American heritage. As Mr. Justice Brandeis observed in his 1928 opinion in Olmstead against United States, the makers of our Federal Constitution recognized the significance of man's spiritual nature, of

his feelings, and of his intellect. They knew that only a part of the pain, pleasure, and satisfaction of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensitivities. They conferred, over and against the Government itself, a right to be let alone—a right to privacy—the most comprehensive of rights and the right most valued by civilized men. It is the right which gives the individual the force of law to say to an agent of the Government, "No, you cannot come into my house or into my life, by any means, without my consent or the full requirements of law and due process."

Important measures have been introduced in the House and Senate to protect more fully this right to privacy. I am proud to have sponsored and cosponsored a number of these measures, including—

H.R. 10259, a bill to govern the disclosure of certain financial information by financial institutions to Government agencies, to protect the constitutional rights of citizens, and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information;

H.R. 10260, a bill to provide standards of fair personal information practices;

H.R. 11624, a bill to protect the constitutional right of privacy of those individuals concerning whom certain records are maintained;

H.R. 11625, a bill to amend the Social Security Act to prohibit the disclosure of an individual's social security number or related records for any purpose without his consent unless specifically required by law, and to provide that—unless so required—no individual may be compelled to disclose or furnish his social security number for any purpose not directly related to the operation of the old-age, survivors, and disability insurance program;

H.R. 11838, a bill to amend sections 2516 (1) and (2) of title 18, United States Code, to assure that all wiretaps and other interceptions of communications which are authorized under that section have prior court approval; and,

H.R. 12349, a bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein.

I also jointly cosponsored with the gentleman from California (Mr. GOLDWATER) an amendment—which was overwhelmingly accepted on the floor—to the proposed Federal Energy Administration Act. That amendment would tighten significantly those disclosure provisions that that bill which could possibly have infringed upon the right to privacy.

And, pressure from Members has resulted in the administration announcing a recission of the Executive Orders 11697 and 11709, the orders which gave rise to the introduction of H.R. 12349 and related measures. So, there is victory there too.

MAIL COVERS VIOLATE THE RIGHT TO PRIVACY

During the course of research and discussions with authorities in this subject field, it has come to my attention that another form of unauthorized surveillance by Government agencies is being practiced today. I speak of "mail covers."

In a mail cover, information appearing on the outside of envelopes intended for a specified addressee is recorded, without his knowledge, by postal employees before the letters are delivered. This information, which includes the postmark and return address and addressor, is then given by the postal service to the Government agency which requested the cover be imposed.

The use of mail covers is varied. It may be placed on those suspected of the commission of crimes. Or, it may be placed on those associated with such persons. Information obtained from such a cover may be used to discover the identity of suspected conspirators or as leads for gathering other evidence. Mail covers are also used to ascertain the whereabouts of people. Postmarks provide accurate information on the whereabouts of people being sought by agencies.

What makes the use of mail covers an unconscionable practice is not only that they invade a person's right to privacy but also—because they are perceived even by the agencies using them as being of questionable color of law—that their use is seldom ever disclosed in a trial for fear that evidence ascertained through them will be ruled inadmissible.

Postal regulations have authorized the use of mail covers since 1893, but it has not been until the past 20 years, however, that mail covers have come to the attention of the public, through several highly publicized controversies. This publicity, together with pressure for reform, has brought about some changes in the regulations, but those regulations are still loose enough to permit mail covers to be abused. Since power over the imposition of mail covers is ultimately entrusted to the discretion of a handful of Government officials, there is a real danger that abuse of discretion will permit mail covers to be used for unwarranted snooping into private matters of all kinds.

In an article, entitled "Invasion of Privacy: Use and Abuse of Mail Covers," 4 Columbia Journal of Law and Social Problems 165, and those that follow—July 1968—the use of mail covers is extensively detailed. While its length does not admit of its full inclusion in the RECORD, I urge its reading upon all colleagues concerned about this possible invasion of privacy. Copies are available, upon request, from my office for the use of Members and their staffs.

KEMP INTRODUCES REMEDIAL LEGISLATION

In many matters, we must build slowly protections around an individual's right to privacy, for the law has gone so far afield that agencies resist outright—and Members are sometimes confused—over what to do. This is no such matter. This one—the use of mail covers—can be dealt with outright.

I have introduced, today, a bill to amend title 18, United States Code, to prohibit mail cover uses. A copy of the bill follows:

A bill to amend title 18 of the United States Code to prohibit so-called mail covers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18 of the United States Code is amended by inserting immediately after section 1737 the following new section: "§ 1738. Mail covers prohibited.

"Whoever, under the color of authority or otherwise, records from any piece of mail the name and address of the sender, the name of the recipient, the place or date of postmarking, or the class of mail, for any purpose other than one directly related to the handling or delivery of the mail, shall be fined not more than $10,000, or imprisoned not more than five years, or both."

SEC. 2. The table of sections for chapter 83 of title 18 of the United States Code is amended by adding at the end thereof the following new item: "1738. Mail covers prohibited."

I use this opportunity to call upon the chairman of the Committee on the Judiciary, to which the bill has been referred, to solicit the formal comments of the Department of Justice, the U.S. Postal Service, and any other Federal instrumentalities deemed appropriate, with an eye toward the holding of public hearings on this and related protection of privacy measures.

These measures are important steps toward safeguarding the right to privacy. Much needs to be done. I am committed to that task, and I invite my colleagues to join with me in this struggle.

SPEECH BY AMBASSADOR HUSSEIN NUR ELMI

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 a speech by Ambassador Hussein Nur Elmi, Permanent Representative of the Somali Democratic Republic to the United Nations, at the Congress of African People's fourth annual delegates reception in honor of African Representatives to the United Nations on November 23, 1973. The text of the speech follows:

SPEECH BY AMBASSADOR HUSSEIN NUR ELMI

Sisters and Brothers: May I first of all express my thanks to the Chairman of the Congress of African People, my friend Imamu Amiri Baraka, and to the organizers of this wonderful reception, for inviting me to speak on this program. I am indeed honoured to be a speaker at this 4th Annual Delegates' Reception, in honour of African Representatives to the United Nations.

All of us here this evening, in this happy gathering, are bound not only by our common ethnic and cultural heritage but also by our common concern and destiny, for we are brethren in Africanism.

For sometime now, the Afro-Americans have been seeking increasingly to find and claim as their own the cultural heritage which was snatched from them hundreds of years ago. In the continent, we have also been engaged in the task of reclaiming our true identity as we emerged into independent statehood. It seems to me, therefore, that our ideals and aspirations, on both sides of the Atlantic Ocean, are broadly the same and are mutually supportive. The results of our efforts are the same: resurrection of African civilization and the securing of those political, social and economic rights that were denied to us in the past.

One of the reasons why I am particularly glad to be here this evening is that I welcome the opportunity to discuss with you ways in which we can share not only our pride in our achievements but also the heavy tasks that need to be done so that our brothers and sisters who are still suffering from racism and colonialism can be freed from such oppressions. You are well aware of the large-scale colonial wars that are being waged by Portugal in order to suppress the aspirations of the African people of Angola, Mozambique and Cape Verde for their self-determination and independence. You are well aware of the situation in South Africa and in Namibia, where Africans are enslaved under the apartheid system. You are well aware of the declared policy of the illegal white minority regime in Southern Rhodesia aimed at the political and economic emasculation of the people of Zimbabwe.

Last year, this annual reception was addressed by Comrade Gil Fernandes of the African Party for the Independence of Guinea-Bissau and Cape Verde. He informed us of the progress achieved by the people in the liberated areas in Guinea-Bissau. He told us to expect good news in the near future. Exactly two months ago, the Popular National Assembly proclaimed the independence of the Republic of Guinea-Bissau—a Republic established by the heroic struggle of its people against tremendous odds, against a cruel and terrible enemy. Today, the people of Guinea-Bissau stand before the world in final victory.

Let us hail, as is fitting to this occasion, the independence of the new state of Guinea-Bissau! Let us salute together the memory of all those men and women who through their courage and sacrifices have made this victory possible!

You are no doubt aware that the new state remains threatened by the Portuguese colonialists who still occupy parts of its territory. It needs both material and diplomatic support so that its sovereignty and territorial integrity can be firmly consolidated.

These, broadly speaking, are the dimensions of the problems of racism and colonialism in our continent. The international campaign against these evils takes several directions, but particular emphasis has been placed, in recent years, on assistance to the liberation movements. But, in the face of the indifference of the major western powers to the liberation of Africa, it is clear that our people have no choice but to resort to revolutionary struggle since all avenues of peaceful change are closed to us. The western powers will say that we are advocating violence, that we are disturbing the peace of the world, while they leave us with no other choice but to take up arms. I believe that it is wrong and immoral to perpetuate injustice in the name of peace. And so, our people will have to fight because we love justice, freedom and dignity much more than peace. However, our struggle would no doubt be made shorter, and less violent, if the power and prestige of the Government of the United States of America were to be directed towards our support. Regrettably, the sad reality is that your Government and much of the legislature of your country which fought the first revolutionary war against colonialism and whose unity was finally established over the issue of freedom for black people, are today becoming more and more negative in their attitude towards the oppressed people of Africa, and more and more supportive of the racist and colonialist white regimes of South Africa, Portugal and even the illegal regime of Southern Rhodesia (Zimbabwe).

Only a few weeks ago, the delegation of the United States to the United Nations distinguished itself by being the only member state of the Organization to oppose the inscription on the agenda of the General Assembly of the question of the illegal occupation by Portuguese military forces of parts of the territory of the new state of Guinea-Bissau. It did not succeed. And yet, in the subsequent debate, the United States was among the very small minority of colonial and racist states which either abstained or voted against the resolution welcoming the declaration of independence by the Republic of Guinea-Bissau and calling for an end to Portugal's acts of aggression against the new state.

This attitude was hardly a surprise to us, for we know that the administration's massive financial aid to Portugal goes far beyond any commitment America may have to that country under the North Atlantic Treaty Organization (NATO) and helps one of Europe's poorest and most under-industrialized countries to wage an expensive, large-scale colonial war in Africa. But we imagined rather naively, I must say, that they would be—in this instance—the first to understand out of their own experience, that recognition and support for a struggling new Republic, still beset by its imperialist enemy, are essential factors in securing the viability and stability of the new state.

With the exception of the small but very active black caucus, the American Congress is not noted for its support of African causes. Only two years ago, Congress saw fit to renew South Africa's sugar quota in full awareness of the practical and the symbolic implications of this act in support of the Fascist South African regime which devised and implemented the obnoxious policy of Apartheid. The Congress then proceeded to violate openly the United Nations sanctions against the illegal regime in Southern Rhodesia by lifting the ban on the importation of chrome and nickel. The excuse for this action was that it was necessary to prevent American dependence on the Soviet Union for these essential metals. The validity or otherwise of this excuse can be judged by the fact that the United States has such a large surplus of these metals that it has recently been selling them from its stockpile.

There is no doubt about the trend of American foreign policy towards the southern African affairs. It can perhaps be summed up in the words of a New York Times correspondent who wrote some articles, a few months ago, commenting on the United Nations activities. He wrote that the American people cannot be expected to be interested in places with names like Zimbabwe, Guinea-Bissau and Namibia, and he deplored the fact that "grim, determined, mostly black men now dominate the Committee meetings at the United Nations and turn the discussions towards such apparently tedious subjects as the inhuman conditions under which South African mineworkers live and work, or the napalm bombing of villagers in Mozambique."

The appeal I would address directly to you, my Afro-American sisters and brothers gathered here tonight, is to ask you to give valid material support—most especially financial support—to the Liberation Movements. But more than this, I would ask you to use your power, as American citizens and as voters with political rights, in order to make your views known to your representatives in the Congress of the United States and to bring pressure to bear on the administration to carry out a policy sympathetic to the cause of justice in Africa. I am asking you for positive political activism. In future, make good use of the power of your votes. Do not allow your votes to be cheap, meaningless, stolen votes.

You have only to look at the example of the American Jews to get an idea of what is possible. They are only six million people, but their pressure on the American political system helped to bring about the establishment of an exclusive Jewish State in Palestine; they succeeded to ensure continuing American support of unprecedented dimensions for that State. I know that you do not command any economic or financial power, like the Jews in this country, but you are well over 24 million, and there is no doubt that with your numerical strength and with determination coupled with firm sense of purpose you can exert a certain degree of political pressure on your Government, so that it may ease, if not abandon, the reactionary policy so far directed to Africa.

The people of the United States, of which you are an integral part, must look to their conscience and their sense of history in this matter and ask themselves whether the commitments of their Government to the Portuguese colonialists and to the South African and white Rhodesian racists are worthy of that history and can be borne by its conscience. The American people are planning to celebrate in 1976 the Bi-centennial of their war of liberation and their Declaration of Independence. A most fitting memorial to that important event would be positive and tangible support for those who have won, or are still struggling to win, independence from colonial rule.

I have said before that the international campaign against racism and colonialism takes several directions. There are certainly areas in which you can help in order to make this campaign meaningful. Since Afro-American citizens excel in the fields of entertainment and sports, I will repeat to you what I have told the participants of the World Congress of Peace Forces held in Moscow last month:

"In the entertainment field, as well as in sports, there is a need to combat the view often expressed by individuals that their performances in South Africa have nothing to do with politics. Typical of this attitude are the statements of members of an American team of athletes whose applications for permits to take part in the South African Open Games held in Pretoria some months ago were held up for consideration by the American Amateur Athletic Association, in response to pressure from two Afro-American Congressmen. The athletes said that they were not 'politically oriented' and 'We're not going because we're supporting apartheid'. One of them said he could not conceive of any social and economic implications in his participation in the games. It has to be pointed out that whether these athletes, or entertainers such as Margot Fonteyn or Eartha Kitt, accept it or not, their actions are political, for they do in fact undermine an international effort to end tyranny and oppression in South Africa."

I think I must conclude now. To be frank, I must admit that I do not think that we are doing all that we can to assist our brothers and sisters still kept in bondage and intolerable racial discrimination.

In this country, one often hears the insulting remarks that those of us who have "made it" are not concerned about the suffering of their people who are still subjugated; who are hungary, ill and illiterate. But those who think that they have "made it", both here in America and in the continent, must know that there are certain inalienable rights of man without which life is devoid of meaning and, in fact, is not worth living. For the daily bread turns to stone unless eaten in freedom and with human dignity.

May I conclude by saying that an organization like the Congress of African People can do much to present to the American public the true image of Africa, and in doing so, it will earn the undying gratitude of its people.

I wish the Congress all success in its untiring efforts to promote understanding, solidarity, cooperation and goodwill between the peoples of Africa and their Afro-American brothers and sisters. I am sure that together, and with enthusiasm and cooperation, we shall win.

ANNOUNCEMENT OF HEARINGS TO REVIEW THE ADMINISTRATION OF THE IMMIGRATION AND NATIONALITY ACT BY THE IMMIGRATION AND NATURALIZATION SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary has scheduled 1 day of oversight hearings on Wednesday, April 3, 1974, to review the administration of the Immigration and Nationality Act by the Immigration and Naturalization Service. The hearing will be held in room 2237, Rayburn Building, and will commence at 10 a.m.

The Commissioner of the Immigration and Naturalization Service, Hon. Leonard F. Chapman, has been invited to testify on this date.

These hearings will be a continuation of the oversight hearings which were conducted by the subcommittee during the 1st session of the 93d Congress.

NEW BUREAU OF PRISONS GRIEVANCE PROCEDURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, on March 7, 1974, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Committee on the Judiciary, issued a report on its inspection of the Federal penitentiary at Leavenworth, Kans., and the Medical Center for Federal Prisoners located at Springfield, Mo.

In that report, we mention one of the prime complaints which representatives of the inmates made to our subcommittee. They claimed that there was no grievance committee or other procedure whereby prisoners could officially bring their complaints to the attention of the proper prison officials. The prisoners told us that a grievance committee or any procedure whereby their complaints could be officially considered would act as a "safety valve" and prevent minor abrasions from festering into major sores of discord and revolt.

With this recent experience in mind, I was pleased to receive a letter dated March 11, 1974, from Norman A. Carlson, Director, Federal Bureau of Prisons. In this letter Mr. Carlson announced the establishment of an administrative remedy procedure to handle complaints from inmates in Federal correctional institutions. Under this new procedure, effective April 1, 1974, inmates may file a written complaint with the warden and they are guaranteed a written response within 15 business days. If not satisfied with this response, the inmate may appeal directly to Mr. Carlson and he will receive a written response within 30 business days. The policy statement accompanying Mr. Carlson's letter specifically provides that the new procedure is not intended to supplant legal avenues of redress for prisoner grievances.

Prior to the implementation of the procedure in all Federal correctional institutions, a pilot project was conducted at three institutions. A summary of the results of the project shows that approximately 35 percent of the inmate complaints were resolved in favor of the complainant. In addition, it provided a continuing opportunity for the institutional staff to review many of its policies and procedures.

I believe the administrative remedy procedure is a step forward for the Bureau of Prisons and I commend Director Carlson for instituting it. For the information of my colleagues, I would like to insert in the RECORD Mr. Carlson's letter, a copy of policy statement 2001.6, and the results of the inmate administrative remedy pilot project:

BUREAU OF PRISONS,
Washington, March 11, 1974.

Hon. ROBERT W. KASTENMEIER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: During the past several years, a number of United States Court Judges have discussed with me the feasibility of developing an Administrative Remedy Procedure to handle complaints from inmates in federal institutions. In his address before the American Bar Association last August, the Chief Justice suggested such a procedure, commenting that it could become an alternative to the flood of prisoner petitions that now face federal courts.

After considerable planning, on September 1, 1973 we instituted on a pilot basis an Administrative Remedy Procedure at the United States Penitentiary, Atlanta, Georgia, and the Federal Correctional Institutions at Danbury, Connecticut and Tallahasee, Florida. Under this procedure, inmates may file a written complaint with the warden, obtain a receipt for the filing and receive a written response within 15 business days. If not satisfied with this response, the inmate may appeal to my office, obtain a receipt for filing and receive a written response within 30 business days.

We believe the pilot project demonstrated the procedure is responsive to inmates' complaints. As you will note on the attached statistical summary, approximately 35% of the inmates' complaints were resolved in the inmates' favor. In addition, the procedure gave the institutional staff an opportunity to review many policies and procedures.

Based on the favorable experience with the pilot project, we are instituting the procedure in all Federal Bureau of Prisons institutions effective April 1, 1974. The enclosed policy statement describes the procedure in detail.

I would personally appreciate receiving any comments or suggestions you may have.

Sincerely,

NORMAN A. CARLSON, *Director.*

[Bureau of Prisons, Washington, D.C., February 14, 1974]

POLICY STATEMENT

Subject: Administrative remedy of complaints initiated by offenders in Bureau of Prisons facilities.

1. Purpose. This Policy Statement establishes procedures by which offenders may seek formal review of complaints which relate to their imprisonment if informal procedures have not resolved the matter.

2. Discussion. Most complaints can be resolved quickly and efficiently through direct contact with staff who are responsible in the particular area of the problem. This is the preferred course of action. Staff awareness of the importance of prompt attention and reply to these routine requests will minimize the use of formal complaint procedures.

A viable complaint procedure will serve the inmates, the administration, and the courts. It will provide the inmates with a systematic procedure whereby issues raised relating to their confinement, will receive attention and a written, signed response within a short period of time from the administration, including the Central Office, if appealed.

Such a procedure assists the administration by providing an additional vehicle for internal solution of problems at the level having most direct contact with the offender. It also provides a means for continuous review of administrative decisions and policies. Further it provides a written record in the event of subsequent judicial or administrative review. A viable Administrative Remedy Procedure should reduce the volume of suits filed in court and will develop an undisputed record of facts which will enable the courts to make more speedy dispositions.

If the inmate cannot resolve his complaint informally, and wishes to utilize this Administrative Remedy Procedure, he shall file his complaint with the Warden or his designee. If not satisfied with the institution's reply, he may appeal to the Director or his designee.

An inmate may, if he chooses, forward his complaint through the Prisoners' Mail Box or he may file his law suit directly with the appropriate court. However, courts frequently require evidence that administrative remedies have been exhausted before ruling on a complaint, and inmates should be so advised.

3. Action. The Chief Executive Officer of each Bureau of Prisons facility is responsible for the establishment and monitoring of an Administrative Remedy Procedure which is compatible with the provisions of this Policy Statement. The operation of the program will be the responsibility of the Warden or the Associate Warden. The investigation of complaints and the drafting of the reply should ordinarily be done by department heads or their representatives, subject to review of the Warden or Associate Warden. The final response shall be signed by both the department head or his representative, and the reviewer.

4. Procedures. All inmates should be advised of this Administrative Remedy Procedure. This can be accomplished, among other means, by posting the local Policy Statement on inmate bulletin boards, through inmate publications and by including it in the admission-orientation program. Where appropriate, the local Policy Statement should be translated into Spanish.

It is suggested that the forms be maintained by the Correctional Counselors wherever practicable. Experience has demonstrated that complaints can frequently be resolved by the counselor.

A record of filings under this procedure shall be maintained in a log and include at least the following information: Name, Number, Date of Receipt, Subject of Complaint, and Disposition. A simple key may also be included to show whether the disposition of the complaint was essentially in the inmate's favor or against him. A copy of this log should be sent monthly to the Central Office, Office of General Counsel.

5. Use of the complaint form. If an inmate cannot resolve his complaint through informal contact with staff, and wishes to file a formal complaint for administrative remedy, he should secure a copy of form BP–DIR–9 and write his complaint in the space provided. He may obtain assistance from other inmates or from staff to help him complete the form. The inmate should then give the completed form to the designated staff member who in turn will provide a signed receipt for the inmate.

The complaint ordinarily must be filed within 30 days from the date on which the

basis of the complaint occurred unless it was not feasible to file within such period. Institution staff have up to 15 days from receipt of the complaint, excluding week-ends and holidays, to act upon the matter and provide a written response to the inmate. When the complaint is of an emergency nature and threatens the inmate's immediate health or welfare, reply must be made as soon as possible, and within 48 hours from receipt of the complaint. The institution duty officer may be utilized in such instances.

When the proper course of action is determined, the "Response" (Part B) should be completed and signed. One carbon copy should go to his central file, and the original and other copy given to the inmate. Responses should be made as quickly as possible, should be based upon facts, and should deal only with the issue raised, and not include extraneous material.

If the inmate is not satisfied with the institution's response, he may file an appeal to the Director, Bureau of Prisons, or his designee through the Prisoners' Mail Box. This should be done on form BP–DIR–10 and include a completed copy of BP–DIR–9 (the initial complaint) with the institution's response. A receipt for his appeal will be sent to the inmate. The Director, or his designee, has up to 30 days from receipt of the appeal, excluding week-ends and holidays, to reply.

If an inmate's complaint is of a sensitive nature, and he believes he could be adversely affected if it is known at the institution that he is making the complaint, he may file it directly with the Director, Bureau of Prisons or his designee through the Prisoners' Mail Box. In such cases, he must clearly explain a valid reason for not filing in the institution.

If the time limit expires without a reply, it will be deemed to be a denial of the request. If dissatisfied with the response to his complaint and appeal, the offender may file suit in an appropriate court and attach documentary proof that he exhausted his administrative remedy.

6. Exceptions. Nothing in this Policy Statement should be construed to affect in any way, the procedure established pursuant to the Federal Tort Claims Act, the Claims for Inmate Injury Compensation under 18 U.S.C. 4126, or procedures for appeal from Good Time Forfeiture actions pursuant to Policy Statement 7400.6A.

The period of time referred to for action by the reviewing officials may be extended for a like period upon a finding that the circumstances are such that the initial period is insufficient to make an appropriate decision. This must be communicated in writing to the inmate.

7. Local issuance. The head of each Bureau of Prisons facility will develop a local Policy Statement on this subject, and forward a completed copy to the Office of General Counsel.

8. This policy is effective April 1, 1974.

NORMAN A. CARLSON,
Director Bureau of Prisons.

STATISTICAL SUMMARY, SEPTEMBER 1–DECEMBER 31, 1973

ATLANTA

Filed: 25 granted (28%); 54 denied (61%); 10 other (11%); and 7 pending.
17—Jail time.
13—Mail, visits and phone calls.
12—Transfer.
10—Medical.
9—Forfeited and meritorious good time.
8—Program assignment.
8—Legal.
5—Record expungement.
4—Parole.
3—Personal property.
2—Industries.
1—Detainer.
1—Release plans.
1—Religion.
1—Meritorious pay.
1—Commissary.

DANBURY

48 Filed: 20 granted (44%); 21 denied (47%); 4 other (9%); and 3 pending.
9—Special offender classification.
8—Transfer.
7—Program assignment.
5—Mail.
5—Disciplinary matters.
4—Forfeited and meritorious good time.
2—Complaints against staff.
2—Medical.
1—Request for interview.
1—Detainer.
1—Personal appearance.
1—Parole.
1—Personal property.
1—Legal.

TALLAHASSEE

20 filed: 8 granted (40%); 4 denied (20%); and 8 other (40%).
9—Disciplinary matters.
4—Transfer.
3—Parole.
1—Complaints against staff.
1—Mail.
1—Access to Admin. remedy.
1—Personal property.

APPEALS

27 filed; 4 granted (23%); 8 denied (47%); 5 other (30%); and 10 pending.
4—Disciplinary matters.
4—Program assignment.
3—Jail time.
3—Mail, visits.
2—Transfer.
2—Complaints against staff.
2—Special offender classification.
2—Personal property.
2—Parole.
1—Record expungement.
1—Legal fees.
1—Industries.

SUMMARY—3 INSTITUTIONS

164 filed: 53 granted (35%); 79 denied (51%); 22 other (14%); and 10 pending.
24—Transfer.
19—Mail, visits and phone call.
17—Jail time.
15—Program assignment.
14—Disciplinary matters.
13—Forfeited and meritorious good time.
12—Medical.
9—Legal matters.
9—Special offender classification.
8—Parole.
5—Record expungement.
5—Personal property.
3—Complaints against staff.
2—Industries.
2—Industries.
2—Detainer.
7—Each miscellaneous.

LABOR-FAIR WEATHER FRIEND—XV

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 gave its imprimatur to an attack that had been made on me by an organization that it subsidizes. There would be nothing unusual in that, if it were not for the fact that the organization involved was not fully organized at the time, and its action was prompted only by a very few characters who are not so much interested in labor as they are in promoting their own interests at my expense. These fellows have it very nice: labor pays them their salaires, subsidizes their organizations, gives them legitimacy, and they can use all this largesse to attempt to undermine me, among other things. These few characters want to advance their careers by setting me up as a straw man. Now everybody knows that I am a friend of labor. I am not going to be silent when labor allows its resources to be used against me.

I have tried letters and private channels to get some attention and some redress, and now I am trying public channels. This seems to be eliciting some response.

A few days ago an intermediary called me to ask what was wrong between me and labor. I simply replied that the record spoke for itself, and that if labor wanted to get right with me, all it had to do was to correct its injustice to me.

Not long after that, Andy Biemiller let it be known that he would like to visit with me. I will be glad to do that. I would be happy to have met with him today, but conflicts in our schedules prevented that.

I do hope to have a chance to see Mr. Biemiller. I know that he has the ability to set this whole affair straight. I am waiting.

And while I am waiting, I will be remembering things. I will be remembering things like the hard, tough days like 1956, when I ran for the State Senate. There was no such thing then as COPE; there was no such thing as a labor candidate in Texas. My opponents attacked me relentlessly as being for labor, and equating that with being a Socialist or Communist. But those attacks never made me back down, and I was able to force my opponents to say that in fact, they were not against the right of labor to organize. That was a dispute that I could have avoided. That was an issue I did not have to address, but I chose to do it. I did not do it, because I owed anything to labor, which had no political power in Texas then, and very little of it now. No, I did it because I believe in defending my principles, and believe in letting my principles be known to one and all.

Yet today the very AFL–CIO gives credence to a charge lodged by a few vicious malcontents who want to paint me as being against labor. They know nothing could be further from the truth. They know, these few, that they have misused their union, their organizations, their whole movement, simply because they have ambitions against me. That is wrong. It is wrong in principle, it is wrong for the labor movement, and it is wrong for me. Mr. Biemiller and his powerful friends can set this right. I am glad to know that Mr. Biemiller wants to talk. I am waiting, and hoping. I am hoping that my defense of labor for all these years has been justified. I will soon know.

RESOLUTION CALLING UPON THE U.S. GOVERNMENT TO OBTAIN ACCURATE ACCOUNTING OF MISSING IN ACTION SERVICEMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

Mr. FOUNTAIN. Mr. Speaker, over 1,200 American servicemen are still listed as missing in Southeast Asia—a situation which is of extreme concern to all Americans.

Recently the General Assembly of the State of North Carolina adopted a resolution calling upon the U.S. Government to obtain an accurate accounting of these missing in action servicemen.

I would like to call the attention of my colleagues to this resolution. The text is as follows:

RESOLUTION

A joint resolution calling upon the United States Government to obtain from the Government of North Vietnam an accurate accounting of all American servicemen missing in action

Whereas, on March 27, 1973, all prisoners of war held by the government of North Vietnam were to be returned to their respective governments; and

Whereas, almost one year has passed and there are still over 1,200 servicemen whose whereabouts are unknown; and

Whereas, the POW–MIA story of this war has been a long and tragic one and the hopes and dreams which were generated in the hearts and minds of the families and friends of these brave men 12 months ago are still unfilled; and

Whereas, the government of North Vietnam adamantly continues its refusal to account for these brave men; and

Whereas, the families of these servicemen continue to suffer in weakened spirits as the seasons pass, not knowing whether their loved ones are dead or alive; and

Whereas, the government of North Vietnam is legally obligated to make an accurate accounting for all of our servicemen;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly of North Carolina goes on record by calling upon the government of North Vietnam to live up to and abide by the terms of the Paris Agreement and cease hindering the legal search for our unaccounted for sons.

SEC. 2. We also go on record by calling upon the United States Government to make every effort to secure an accurate account of all of our missing personnel.

SEC. 3. We further declare that all North Carolinians will not forget these brave men whose whereabouts are still unknown.

SEC. 4. The Secretary of State is hereby directed to prepare and deliver certified copies of this resolution to the Secretary General of the United Nations, the Secretary of State of the United States, the President of the United States, the Governor of North Carolina, and to Congressmen and United States Senators of North Carolina.

SEC. 5. This resolution shall become effective upon ratification.

PRINCE JONAH KUHIO KALANIANAOLE—A PRINCE OF THE PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 15 minutes.

Mr. MATSUNAGA. Mr. Speaker, today marks the 102d anniversary of a significant day in the history of Hawaii—the birth of a former delegate to this House, Prince Jonah Kuhio Kalanianaole. One of the most appealing figures in Hawaiian history, Prince Jonah became, despite his royal heritage, one of the foremost champions of American democracy from Hawaii.

Born on Kauai, only a short distance from my own birthplace, Kalanianaole was a direct descendant of the last independent ruler of that island. While still in his teens, the youth was created a prince of the realm by his uncle, King Kalakaua.

After acquiring an education which took him to Great Britain for studies at the Royal Agricultural College, the Prince was compelled by ill health to return to Hawaii, where he served as a minor official in the Hawaiian monarchy. When the nonnative element forced revolution in the islands in 1893, Kuhio sided with his cousin, Queen Liliuokalani. Shortly after the Republic of Hawaii was established, the unreconstructed Prince was arrested, convicted, and imprisoned for conspiring to effect a royalist uprising. He was released in 1896.

Returning home from a subsequent lengthy world tour, he entered into politics, becoming for a time a member of the home rule party before declaring in favor of the Republicans. This switch in party affiliation occurred in 1902, in which year the Prince received the Republican nomination for territorial delegate to Congress. Victorious in his first campaign, Kuhio established a record of political invincibility from then on. He served as Hawaii's delegate to Congress from 1903 until his death in 1922.

Affectionately known to his colleagues and constituents alike as "Prince Kuhio" or "Prince Cupid," the affable, untiring delegate captured the respect of everyone with whom he came in contact. He rendered significant service to his people and, in 1919, introduced the first of a long series of bills to accord statehood to Hawaii. He successfully sponsored the Hawaiian Homes Commission Act, looking to the salvation of the Hawaiian people from second-class status in their own land.

On January 7, 1922, the prime mover of Hawaiian rehabilitation was called to his father's mansion. Despite his expressed wishes to the contrary, his funeral was conducted with pomp and pageantry, which has never been surpassed in the history of the islands.

Jonah Kuhio Kalanianaote was revered not only as a man of pure motives, but also as the last titular prince of his line. The Hawaiian people today acknowledge that he, through example and influence, played a major role in committing the islanders to an acceptance of America, and converting them to passionate Americanism. That Americanism promises to extend, undiminished, into perpetuity under Hawaiian statehood—a dream that Prince Kuhio nourished, but did not live to see fulfilled.

Truly, Kuhio was "Ke Alii Makaainana"—"A Prince of the People"—and long after his death still serves as an inspiration to his people.

INTRODUCTION OF LEGISLATION TO REPEAL TARIFFS ON WHEAT IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio, (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, at this time uncertainty prevails with respect to wheat supplies in America in the next few months. Supplies are lower than any time since World War II. It is possible that exports and domestic consumption will be such that there will be spot shortages and wild price fluctuations in the cost of wheat and flour.

It is unconscionable that the United States—one of the three or four great grain basins of the world—would find itself in the position of being short of wheat. Yet, the Department of Agriculture has been so determined on exporting wheat, that they have exported us into high prices and shortages. The Department has treated the food supplies of the United States as a bargain basement commodity—they have been providing a clearance sale of our reserves—and the result may be chaos.

I have joined with others, including the gentleman from New York (Mr. WOLFF) in sponsoring legislation to regulate the export of agricultural commodities to insure that a "reasonable carryover" of supplies not be exported.

Second, in an effort to prepare for possible shortages this summer, I am today introducing legislation to repeal the tariff on wheat. In the event that we will need to import Canadian wheat in certain areas of the country to counter spot shortages, the American consumer is entitled to obtain those supplies at the lowest cost possible. The tariff elimination could help in some small way to hold down food prices.

On January 25, 1974, the President issued a proclamation suspending the limitation on the quantities of wheat and milled wheat products which could be imported into the United States.

Foreign producers cannot plan production on a short-term basis. If we must rely upon such producers for adequate supplies—these supplies should be free of both quota restrictions and tariff costs. The American consumer needs adequate supplies at reasonable prices. If the American farmer prefers to sell his produce to foreigners and create shortages at home, the American consumer has every right to purchase his needs from foreign producers, at this time and from now on.

The legislation I have introduced today will hopefully provide additional relief to American consumers in obtaining necessary supplies of wheat and wheat products.

LEGISLATION REQUIRED TO END AGNEW EXPENDITURES

(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, I, along with many of our colleagues, have received letters from constituents very upset over the services extended to former Vice President Agnew at taxpayers' expense after he left office. As a result of the efforts of our colleague JOHN MOSS, the Secret Service guard heretofore provided to Mr. Agnew, illegally according to an opinion by the Comptroller General of

the United States, Mr. Elmer B. Staats, has been withdrawn.

I wrote to the Comptroller General on February 22 asking that I be provided with a report on the facilities and staff made available to Mr. Agnew by the General Services Administration. I received a detailed response, as have a number of other Members, which I am setting forth in the RECORD which itemizes the services and expenses incurred on Mr. Agnew's behalf.

Most important, the Comptroller General recommends that the Congress "remove all doubt for the future by enacting appropriate legislation concerning the use of appropriations made for "Special Assistance to the President" and for the use of space by a former Vice President and his staff following his resignation during his term of office." While I am hopeful that it will be a long time, if ever again, before a Vice President is convicted of criminal activity and forced to leave office, the necessary safeguards should be established now. Indeed, we may run into the same problem and thus need an established policy should the President be removed from office.

Therefore, I urge the Appropriations Committee to give consideration to appropriate legislation to protect us in matters of this kind. The letter follows:

MARCH 21, 1974.

Hon. EDWARD I. KOCH,
House of Representatives.

DEAR MR. KOCH: This is in response to your recent request that we report to you concerning the services and facilities which have been provided by the Government for former Vice President Agnew since his resignation. Generally, Mr. Agnew has been provided with an office staff, space in government buildings and ancillary services, and, until February 17, 1974, with Secret Service protection. We have concluded, for reasons set forth below, that there is no authority for Secret Service protection of Mr. Agnew but that we cannot say that appropriated funds may not be expended for the other services and facilities which he now enjoys.

With respect to the Secret Service protection, the Secretary of the Treasury was requested in writing by President Nixon on October 10, 1973, to direct the Secret Service to provide a detail for the protection of Mr. Agnew for a reasonable period of time, and on October 11, 1973, the Secretary by memorandum requested the Director of the Secret Service to provide such a detail. A Secret Service representative advised us that, in connection with the protection, the Secret Service provided vehicles and drivers to transport Mr. Agnew. The cost of Secret Service protection for Mr. Agnew from October 10, 1973, the date of his resignation, through December 15, 1973, was $89,222, including salaries and benefits, travel, and miscellaneous expenses, according to a Deputy Assistant Secretary of the Treasury.

The statute prescribing the powers of the Secret Service with respect to protection of public officials and others is section 3056 of title 18, United States Code. Section 3056 contains no authority for the Secret Service to protect the person of a former Vice President, or for the President to direct that it do so, nor are we aware of any other statutory provision which would authorize such protection for Mr. Agnew. In the absence of specific statutory authority the Presidential memorandum to the Secretary of the Treasury, and the Secretary's memorandum based thereon to the Director of the Secret Service, do not, in our opinion, constitute legal authority to provide Secret Service protection for Mr. Agnew.

We understand from newspaper accounts that the Department of the Treasury apparently assumes that the President has "inherent executive power" to order the Secret Service to protect Mr. Agnew. We do not agree. While the President unquestionably has powers not specifically set forth in the Constitution or the laws, these powers "must stem either from an act of Congress or from the Constitution itself." *Youngstown Sheet and Tube Co.*, v. *Sawyer*, 343 U.S. 579, 585 (1952). Thus, for example it has been said that the President has "inherent constitutional authority" to order protection of distinguished foreign visitors to the United States or of official representatives of this country while they are abroad. S. Rept. No. 91–1463, 91st Cong., 2d sess. 2. But the claimed power, in those circumstances, finds its justification in furtherance of the President's performance of his constitutional duties to "receive Ambassadors and other public Ministers" (Article II, section 3), and to make treaties, subject to Senate advice and consent (Article II section 2). No such justification in terms of carrying out a constitutional duty appears to be present in this case. We might point out here that 18 U.S.C. 3056 specifically authorizes Secret Service protection for heads of foreign states and other distinguished foreign visitors.

In view of the foregoing conclusion, we informed the Secretary of the Treasury, by letter dated February 15, 1974, that appropriations for the operations of the Secret Service are not available to pay the costs of furnishing Secret Service protection to former Vice President Agnew, and consequently that future payments made for that purpose would be disallowed. In recognition of the administrative problems involved in discontinuing the protection, we stated that the disallowances would be made on any payments after February 17, 1974. We now understand that the protective services which were being provided for Mr. Agnew were discontinued as of February 17, 1974.

As to the question of staff assistance provided Mr. Agnew, information furnished us by the White House disclosed that, while he held office, Mr. Agnew had 46 personnel assigned to him. We were further advised that 28 of the original 46 staff members had left by December 4, 1973, leaving 18 accountable. Of the remaining 18, 7 were attributed by the White House to what it refers to as the "Office of the Vice President," 3 to the "Senate," and 8 to the "Transition Office." Of the 46 staff members, only the 8 reported, as of December 4, to be in the "Transition Office," were serving as personal staff to Mr. Agnew. The question of authority for this personal staff is discussed in detail below. The other 38 reportedly performed what might be termed a caretaker function, assuring the continued operation of the respective offices maintained for an incumbent Vice President in his executive role and in his role as President of the Senate, in anticipation of the appointment and confirmation of a successor to Mr. Agnew. The salaries of the latter 38 personnel were paid under the authority of either the appropriation for Special Assistance to the President [found in the Treasury, Postal Service, and General Government Appropriation, 1974, approved October 30, 1973, Pub. L. 93–143, 87 Stat. 510] or from the appropriation for clerical assistance to the Vice President [found in the Legislative Branch Appropriation, 1974, approved November 1, 1973, Pub. L. 93–145, 87 Stat. 527] depending on whether they served in the office maintained for a Vice President in his executive capacity or in the office maintained for a Vice President in his role as President of the Senate (i.e. in his legislative capacity).

The services of the staffs, assigned to the "Office of the Vice President" and the "Senate", are reportedly necessary either to wind up activities begun while the Vice President held office which were within the purposes of the respective appropriations, or—as indicated above—to provide a "caretaker" staff which would take necessary actions to carry on those functions of the Vice President which were also within the purposes of such appropriations, in order that the successor Vice President might assume the same functions with minimum disruption. Since, as reported to us, they are not serving Mr. Agnew personally, we have concluded that the use of the cited appropriations as authority for payment of these staffs after the resignation of the incumbent Vice President is proper.

The "Transition Office" consists of the staff directly assisting Mr. Agnew. The salaries of this staff are being paid, as noted, under the authority of the appropriation for "Special Assistance to the President," found in the Treasury, Postal Service, and General Government Appropriation Act, 1974, approved October 30, 1973, Pub. L. 93–143, 87 Stat. 510, 516. In support of the use of this particular appropriation, the Counsel to the President states that:

"The use of this fund has always been at the President's discretion. In recent years it has been used in behalf of the Vice-President but that is not the only legitimate purpose for which these funds may be spent. In this instance the President, in his discretion, directed that a portion of his Special Assistance appropriation be utilized to facilitate the former Vice-President's completion of his governmental affairs. This consists primarily of sorting the numerous public and private papers which have accumulated since his taking office in 1969."

The appropriation for Special Assistance to the President was requested by this Administration, and first appeared in the Treasury, Post Office, and Executive Office Appropriation Act, 1971, approved September 26, 1970, Pub. L. 91–422, 84 Stat. 872. It read, in pertinent part:

"For expenses necessary to enable the Vice President to provide assistance to the President in connection with specially assigned functions * * *." 84 Stat. 876.

This was the language proposed by the Administration. It has been preserved in each succeeding enactment of this appropriation, including the current one which is at issue herein.

The purpose of the appropriation for Special Assistance to the President was, and has remained, to provide staff support for the Vice President with respect to the entire spectrum of his executive duties (as opposed to his legislative duties as President of the Senate, for which funds have been available under the legislative branch appropriation). It was pointed out when the first appropriation for Special Assistance to the President was requested that the Vice President, despite his increasing responsibilities, both statutory and by direction of the President, had no permanent staff of his own other than that provided for in the legislative branch appropriation. Until the enactment of the subject appropriation, staff assistance for the Vice President in connection with his executive duties was being provided by means of "loans" or details of personnel from the executive agencies. See Hearings Before the House Subcommittee on Departments of Treasury, Post Office and Executive Office Appropriations, 91st Cong., 2d sess., 184–92; Hearings Before the Senate Subcommittee of the Committee on Appropriations on H.R. 16900, 91st Cong., 2d sess., 1253–61.

In testimony by the Director of the Office of Management and Budget in support of the appropriation, some examples of the Vice President's executive functions have been listed. Hearings on H.R. 9590 Before a Subcommittee of the Senate Committee on Ap-

propriations, 93d Cong., 1st sess., 1767. Although some of the executive duties to be performed by the Vice President are given him by statute, many of them are assigned or delegated to him at the discretion of the President. For example, by direction of the President, the Vice President is a member of the Cabinet (and acts as Chairman in the President's absence), he is the Chairman, National Council on Indian Opportunity, and he assists the President in the conduct of international affairs. Since the President may in his discretion assign these and other duties to the Vice President, and since the appropriation for Special Assistance to the President is intended to enable the Vice President to perform his executive duties, it follows that the President in effect has some degree of discretion as to how this appropriation is to be used; he may determine what functions the Vice President is to perform to assist him and may direct that the fund or a portion of it be used in connection with one or another of those functions.

However, we cannot accept without some qualification the statements of the Counsel to the President that "the use of this fund has always been at the President's discretion," and that use of it in behalf of the Vice President "is not the only legitimate purpose for which these funds may be spent." Whatever discretion the President has in this respect is limited, by the terms of the appropriation, to its use generally "for expenses necessary to enable the Vice President to provide assistance to the President."

While the President's discretion with respect to this appropriation is thus not unlimited, it clearly extends, as noted, to determining what activities of a Vice President the President considers to be of assistance to him. If a President were to determine, in the exercise of this discretion, that it would be of some official assistance to him to have an incumbent Vice President sort the public and private papers which had accumulated during his tenure—in order, for example, that access to the public papers for official purposes might be facilitated—we have no doubt that he could assign this task to the Vice President and that necessary expenses to enable the Vice President to perform the task could properly be paid from the appropriation for Special Assistance to the President. Moreover, as we stated in our letter to you of December 14, 1973, funds under the Special Assistance to the President appropriation may remain available for expenditure in connection with the activities of a former Vice President in certain circumstances.

In this instance, the appropriation in question is being used to pay the salaries of staff assisting the former Vice President in "sorting the numerous public and private papers which have accumulated since his taking office in 1969." This is said to be for the purpose of facilitating the former Vice President's "completion of his governmental affairs." As indicated above, the legislative history of the appropriation in question contains no indication whatever as to whether the staff assistance would continue after the resignation of a Vice President, but we doubt that the Congress intended that the appropriation would be available for the purpose of continuing staff assistance during the period of time here involved. Under normal circumstances, that is when a Vice President vacates his office at the expiration of his term, funds for winding up his affairs would be appropriated by the Congress under the authority of the Presidential Transition Act of 1963.

However, in view of the lack of any clear legislative history that the funds under the appropriation in question can only be used to defray expenses when a person is holding office as Vice President and especially the President's discretion in the matter, we are unable to conclude that such funds are not legally available to enable a former Vice President, who resigned during his term of office, to perform a task which the President deems to be of assistance to him and for which the appropriation would have been available while the former Vice President held office. Since we cannot say that the use of Mr. Agnew's staff is not to some degree official in purpose, we must conclude also that the expenditures by the General Services Administration, for office space in Government buildings and for anciliary services for Mr. Agnew and this staff, are legally proper.

The Counsel to the President advises us that "it is expected" that the staff services and facilities being provided for Mr. Agnew will not be continued beyond the first part of April 1974.

We recommend that the Congress remove all doubt for the future by enacting appropriate legislation concerning the use of appropriations made for "Special Assistance to the President" and for the use of space by a former Vice President and his staff following his resignation during his term of office.

We note finally that Mr. Agnew has enjoyed the use of the franking privilege subsequent to his resignation. By virtue of a Joint Resolution of the Congress, approved October 26, 1973, Pub. L. 93–138, 87 Stat. 503, the Secretary of the Senate was directed to allow certain specified uses of the franking privilege to Mr. Agnew through November 10, 1973, "with respect to official business occurring as the result of his having held the office of Vice President." Expenditures of $287.12 attributable to Mr. Agnew's use of the frank were reported to us to have been made from October 10, 1973, through December 4, 1973. See also 39 U.S.C. 3210, extending the use of the frank to a Vice President, for matter relating to his official business until the 1st day of April following the expiration of his term of office. This Office lacks authority to pass upon the propriety of a particular use of the frank. See section 5 of the act of December 18, 1973, Pub. L. 93–191, 87 Stat. 737, 742.

We hope that this report will be helpful to you.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

FINLAY LEWIS: IMPEACHMENT: NIXON IN CRISIS

(Mr. FRASER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRASER. Mr. Speaker, in a series of seven articles published in the Minneapolis Tribune, February 3–9, 1974, Finlay Lewis of the Tribune's Washington bureau has done a fine job of placing the current impeachment question into context.

Lewis examines the British origins of impeachment, looks at the deliberations of our founding fathers on this matter, considers past impeachments with one article devoted to the Andrew Johnson impeachment and reports on a series of interviews with Congressmen and others involved with the impeachment process.

Finlay Lewis has produced a clear and thoughtful overview of impeachment. It is this sort of reporting that makes complex public questions understandable and meaningful to concerned citizens. The seven articles follow:

STRONG WORDS FLY AS PRESIDENT'S OUSTER IS DEBATED—I

(By Finlay Lewis)

WASHINGTON, D.C.—John M. Doar, a Minneapolis native and a lawyer who is a veteran of many bitter public controversies, works in seclusion these days on one of the most momentous issues of the century—the impeachment of Richard Nixon.

Hired by a Democrat, Doar, a nominal Republican, has assembled a staff of about 30 other lawyers that now sprawls over an entire floor of the Congressional Hotel.

Politely, but firmly, Doar, 52, refuses most requests for interviews, saying that he will not discuss the issue until he is good and ready—and then only at the bidding of his client, U.S. Rep. Peter Rodino, D-N.J., chairman of the House Judiciary Committee.

But outside the confines of Doar's staff, partisans on both sides of the impeachment issue are staking out positions in increasingly strident tones.

President Nixon, who has a long history of viewing his own political development in terms of crises confronted and overcome, once again sees himself as an embattled man and appears to be preparing for what may be the ultimate crisis of his career.

"There is a time to be timid. There is a time to be conciliatory. There is a time, even, to fly and there is a time to fight. And I'm going to fight like hell," Mr. Nixon reportedly told a group of Republican congressmen late last month.

He is not without powerful allies.

One of his friends, U.S. Rep. John Rhodes of Arizona, Republican minority leader in the House, asserted recently that Democrats on Rodino's committee who have sponsored impeachment resolutions should disqualify themselves from voting on the issue.

Then, last week, Attorney General William Saxbe told U.S. News and World Report that President Nixon is not guilty of an impeachable offense, the entire history of the Watergate scandal notwithstanding.

"An impeachment action—especially a bitter partisan impeachment, which it would have to be if no further crimes of a great nature are developed—would tear this country apart," Saxbe told the magazine.

To all of this Rep. Robert Drinan, D-Mass., replied: "Baloney."

Drinan, a Judiciary Committee member, said he sponsored an impeachment resolution on the "assumption . . . that the president would have a hearing and that perhaps he can exculpate himself."

"That's a bunch of crap," said Rep. Charles Wiggins, R-Calif., one of the president's most respected defenders on the committee. "This notion that impeachment will clear the air—that's a lot of nonsense and the members shouldn't fall for it," Wiggins said in a recent interview. "In our tradition, people are not asked to stand trial in order to prove their innocence."

All this is preliminary to the main event as politicians in the nation's capital—after months of doubt and uncertainty—confront the full implications of the Watergate scandal and, ultimately, the central question. It is this:

Should Mr. Nixon be formally impeached by the U.S. House of Representatives for high crimes and misdemeanors and brought to trial before the U.S. Senate, where a guilty verdict would mean his removal from office and the succession of Vice President Gerald Ford?

The Judiciary Committee has been assigned jurisdiction over impeachment and Rodino and his colleagues will be the first in Congress to confront the matter officially. But before doing so, the committee must find an answer to another, equally fundamental, question:

What, in fact, are the proper grounds for impeachment?

How Congress answers that question will have a decisive impact on the fate of the Nixon presidency. As the issue unfolds, history will be scoured—by all participants—for helpful clues and guideposts.

Impeachment—essentially an accusation akin to a criminal indictment—has been embedded in English law since at least 1386

when the Earl of Suffolk was impeached for high crimes and misdemeanors centering on the misapplication of appropriated funds.

During the 17th and 18th centuries, the impeachment process became a potent and often bloody weapon in Parliament's struggle to assert legislative supremacy over the British crown.

Since the monarchy itself was considered unassailable, Parliament's targets were most often judges and ministers who were viewed as extensions of the crown's authority.

Time and again, the House of Commons sat as the "Grand Inquest of the Nation" to prefer articles of impeachment against the highest executive officials of the realm who would then be tried at the bar of the House of Lords.

Eventually successful in its fight for ministerial control, Parliament allowed the impeachment process to fall into disuse.

But at about this time—in 1787—the framers of the Constitution began meeting in Philadelphia to forge a charter for the new United States.

Mindful of Parliament's struggles with the crown, the founding fathers were determined not to create a government that could be turned into a vehicle of oppression by a power-hungry or corrupt executive.

For example, James Madison, the principal architect of the Constitution, told the Philadelphia convention: "It (is) indispensable that some provision be made for defending the community against the incapacity, negligence or perfidy of the chief magistrate.

"The limitation of the period of his service was not a sufficient security. He might lose his capacity after his appointment. He might pervert his administration into a scheme of peculation or oppression. He might betray his trust to foreign powers."

And so the framers wrote several paragraphs into the Constitution to define an impeachment procedure. Their draftsmanship included article II, section 4:

"The president, vice president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery and other high crimes and misdemeanors."

"And other high crimes and misdemeanors"—the meaning of that phrase lies at the core of the controversies that have flared during the decades since the Constitution was ratified.

In all, 12 "civil officers"—nine judges, a senator, a cabinet officer and President Andrew Johnson—have been impeached. Four have been convicted and removed from office after trial by the Senate.

In almost every instance, the crucial issue has been the definition of an impeachable offense. Inevitably, definitions have been developed to suit the partisan objectives of contending forces in Congress.

The founding fathers apparently expected that this would be the case.

For example, Alexander Hamilton, writing in the Federalist Papers before the Constitution was ratified, said, "Impeachments . . . are of a nature which may with peculiar propriety be denominated political, as they relate chiefly to injuries done to the society itself.

"The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused."

In general, forces seeking impeachment have sought broad, essentially political, definitions of offenses that could justify removing a civil officer from public life. The defenders have insisted on narrow, legalistic ground rules.

For example, when Gerald Ford—then GOP minority leader in the House—was attempting to impeach Supreme Court Justice William O. Douglas, he suggested the following approach during a floor speech on April 15, 1970:

"What, then, is an impeachable offense? The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history; conviction results from whatever offense or offenses two-thirds of the other body consider to be sufficiently serious to require removal of the accused from office . . ."

More recently, however, Ford, speaking as vice-president and a defender of Mr. Nixon, shifted ground.

Appearing on NBC's Meet the Press program, Ford said on Jan. 6 that the impeachment of a president is not like the impeachment of a judge.

A judge, unlike all civil officers, is appointed to his post for "good behavior," a phrase that goes undefined in the Constitution.

"So good behavior is pretty much what the Congress decides. But the definition for impeachment of a president is very specific," Ford said.

He went on to express confidence that there are no grounds to impeach Mr. Nixon under the "specific definition" provided by the Constitution.

Elaborating on the same theme, Rhodes, in a recent breakfast meeting with reporters, argued that an impeachable offense must involve a law violation that could otherwise provide grounds for a criminal indictment by a grand jury.

That notion has been attacked by Drinan and other Democrats, and also by a number of Republicans.

"The first illusion we have to break is that you have to prove a criminal offense (to the President). This is a political offense," Drinan said.

In broad terms, then, these are the arguments that will be the focus of the impeachment debate in the coming months.

HISTORY MAY AFFECT FUTURE OF NIXON PRESIDENCY—II

(By Finlay Lewis)

WASHINGTON, D.C.—The fate of Richard Nixon's presidency may well be determined by the intrigues of public men who are now dead and buried beneath history.

The "odious Scroggs;" a 17th century lord mayor of London named Sir Richard Gurney; and Blackstone, the famous English jurist, are names that may be summoned from the past as Congress confronts impeachment.

The evidence will be contemporary and so will the allegations.

But the precedents will stretch at least as far back as 1386 when the Earl of Suffolk, accused of mishandling appropriated funds, was impeached by the British Parliament for high crimes and misdemeanors.

In 1679—as a power struggle between Parliament and the crown was nearing a climax—the House of Commons declared that impeachment was "the chief institution for the preservation of government."

To Raoul Berger, a leading authority on impeachment, that declaration is no less valid today than it was in 17th and 18th century England when Parliament successfully resorted to impeachment as a means of asserting its supremacy over the throne.

In an interview with the Educational Broadcasting Corp. on Jan. 22, Berger, a senior fellow in American legal history at Harvard Law School, said, "we have had, on the whole, nothing comparable to the conduct in office of the Nixon administration."

Berger went on to assert that "corruption" by Nixon Cabinet members threatened to undermine "the electoral process which goes to the vitals of democracy."

Elaborating on that comment Berger said, "Our experience shows that when you don't curb excessive power it becomes arrogant and oppressive, tyrannical, and you've just got to guard against that."

The administration, Berger noted, used national security as a justification for covert intelligence-gathering operations, such as the burglary of a psychiatrists's office in connection with the Pentagon Papers prosecution of Daniel Ellsberg.

"If we get a man who begins to have tyrannical aspirations—and here we've got all these breaches in the name of national security—well, you've got to be able to pull that man down. Impeachment gives us the machinery to do that."

Berger's influence is likely to be considerable when the House Judiciary Committee prepares its recommendation to the full House on whether Mr. Nixon should be peached.

In doing so, one of the committee's first tasks will be to define the meaning of the paragraph in the Constitution which says, "The president, vice president and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors."

Particularly troublesome are the words "high crimes and misdemeanors."

When the founding fathers wrote the Constitution in 1787, did they mean that a civil officer could only be impeached for a "high," or serious violation of law that would also be indictable? Or did they intend the phrase to encompass the broader realm of political crimes against society? This is a question that Berger has treated exhaustively in his scholarly book, "Impeachment: The Constitutional Problems."

Based on a close study of English and American constitutional history, he concludes that the phrase is peculiar to impeachments and is "without roots in the criminal law."

As a weapon to establish parliamentary democracy, impeachment in England was used to "bring corrupt and oppressive ministers to heel," Berger wrote.

A few pages later, he added, "The framers (of the U.S. Constitution) were steeped in English history; the shades of despotic kings and conniving ministers marched before them."

In an interview with the Tribune, Berger said, "The founding fathers were well aware that the House of Representatives fell heir to the inquiry powers of the House of Commons as the 'grand inquest of the nation.'

"There was a tremendous distrust of executive power. They felt that the greatest source of aggrandizement was the executive and when the chips were down they gave Congress the power to remove him for jurisdictional excesses, for usurpation of power and for subversion of the Constitution."

Berger's book cites example after example of English impeachments to show that the ouster of ministers and judges was based on accusations of noncriminal misconduct.

Chief Justice Scroggs, for instance, was impeached from his post in 1680 for dismissing a grand jury before it could take action against "Papists."

Sir Richard Gurney was impeached from office as lord mayor of London in 1642 for thwarting Parliament's order to store arms and ammunition in city warehouses.

Other officers of the crown were impeached for such "offenses" as giving bad advice to the king, advocating unwise peace terms, alienating the king from Parliament, isolating the king from other advisers and, in one instance, giving medicine to the king without the advice of a physician.

Several Republican members of the Judiciary Committee who have read the Berger book contend in interviews that Berger has

an anti-Nixon bias. They assert that his conclusions should be weighed in that light.

In this vein, Rep. Edward Hutchinson, the ranking Republican on the committee, said, "I think that impeachment is just another attack by the enemies of Richard Nixon on Richard Nixon."

Rep. John Rhodes, the GOP's floor leader in the House, is not a member of the committee. But he said he has read parts of Berger's book and disagrees with much of what he studied.

"He's a committee of one," Rhodes said.

Berger insisted, however, that he finished his book and sent it to the publishers nearly three years ago—long before any serious thought was given to impeaching Mr. Nixon.

He also rejected the notion that impeachment should be viewed as an open-ended political process by which a president could be thrown out of office as soon as opponents command the necessary votes in Congress.

Instead, he argued that the phrases "high crimes and misdemeanors" had a specific, technical meaning to the Constitution's framers, based on their understanding of English history.

In broad terms, Berger defines the phrase as involving misapplication of funds; abuse of official power; encroachment on, or contempt of, Parliament's prerogatives, and corruption.

Recently, Berger's view was buttressed by an impeachment study issued by the prestigious Association of the Bar of the City of New York. The study, surveying British precedents, concludes:

"The English practice of 'impeachment for high crimes and misdemeanors' was not predicated on criminal acts.

"High misdemeanor" was a catch-all term covering serious political abuses of various kinds, used only in parliamentary impeachment proceedings, and without roots in the normal English criminal law."

WHAT CONSTITUTES GROUNDS FOR IMPEACHMENT?—III

(By Finlay Lewis)

WASHINGTON, D.C.—If Richard Nixon's enemies ever choose a prophet, the most likely candidate probably would be James Madison.

As the principal drafter of the U.S. Constitution in 1787, Madison obviously had no way of knowing that some day there would be a Watergate burglary, a Watergate cover-up, a plumbers squad or any of the other scandals that have brought President Nixon to the brink of impeachment.

Nonetheless, it is almost impossible to discuss impeachment these days without either invoking or debunking Madison's views on the subject.

To present day experts on impeachment, like Raoul Berger of Harvard Law School, Madison's conclusions are akin to gospel for the light they throw on the intent of the founding fathers when they wrote the impeachment clauses into the Constitution at the Philadelphia convention.

Particularly pertinent, in view of the mounting list of former Nixon associates now either indicted or convicted of Watergate crimes, is a remark by Madison during the first Congress.

Arguing that the president should have a free hand in firing his subordinates, Madison said, "It will make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses. On the constitutionality of the declaration, I have no manner of doubt."

Berger, a senior fellow in American legal history at Harvard and author of an authoritative book on impeachment, asserted that a president can be impeached for such offenses as "abuse of trust, corruption or neglect of duty."

It is no longer an academic question, according to Berger.

"Neglect of duty. Madison ties it all up by saying that a president can't neglect to supervise the excesses of his subordinates," Berger noted in the interview.

"In other words, you can't give all sorts of powers to your subordinates and shut your eyes to what they do with it. You're responsible for what they do and, in fact, Nixon admits he's responsible."

Others—particularly those who are inclined to defend the president—aren't convinced.

For example, Rep. John Rhodes, GOP minority leader in the House, said, "I don't think you could ever get anyone to be president if he could be held impeachable for the acts of his subordinates. The federal government is just too big. It doesn't make any sense."

Rep. Edward Hutchinson of Michigan, the ranking Republican on the House Judiciary Committee, also takes a narrow view of Madison's theory of executive responsibility.

"The president ought not to be impeached for the unlawful acts of his subordinates unless he directed those actions or specifically ratified them," Hutchinson said in an interview.

Hutchinson's opinion is significant because of his senior role on the committee that must eventually recommend a course of action on impeachment to the full House.

The House will decide whether to adopt a formal accusation against Mr. Nixon. If it does so, the accusation will be presented to the Senate as articles of impeachment.

The Senate, with the chief justice of the United States presiding, would try the president on the basis of the articles and could remove him from office, upon conviction by a two-thirds majority vote on one or more of the articles.

The procedure set forth by the Constitution was inspired by the British Parliament's use of impeachment in the 17th and 18th centuries to undercut the throne's power by removing its ministers and judges for political crimes against society.

Taking their cue from Parliament's battles with "royal oppression" the founding fathers viewed impeachment as a mechanism for curbing the "tyrranical aspirations" of a future power-hungry and corrupt executive, according to Berger.

A study of the records of the Philadelphia convention shows that impeachment was first proposed by Madison in his "Virginia plan." After some debate it was decided that the president would be removable "on impeachment and conviction of mal-practice or neglect of duty."

Two delegates, Charles Pinckney and Gouverneur Morris, later attempted to delete the impeachment clause but were defeated. During the debate, Benjamin Franklin described impeachment as "favorable to the executive."

If the "chief magistrate" could not be removed by an impeachment process, Franklin reasoned, the only alternative would be "assassination in which he was not only deprived of his life but of the opportunity of vindicating his character."

Madison contended that impeachment was necessary to guard against the "incapacity, negligence or perfidy of the chief magistrate."

The clause was then amended to make "malpractice or neglect of duty" grounds for a president's removal; still later it was refined to "treason or bribery."

But George Mason felt that the clause was too limited and he moved that it be expanded to include "maladministration."

Madison then objected, saying, "So vague a term will be equivalent to a tenure during the pleasure of the Senate."

At that point, Mason proposed—and the convention, accepted—the phrase "high crimes and misdemeanors." That is the precise language of many of the earlier English articles of impeachment.

Despite his objections to "maladministration" as a constitutional basis for impeachment, Madison told the First Congress a few years later that a president who removes "meritorious" subordinates "will be impeachable by the House before the Senate for such an act of maladministration."

Berger, based on his studies of the convention record and of English and American constitutional history, concludes that impeachable acts are essentially political in nature and can be categorized as abuses of trust and power, and neglect of duty.

Rhodes, on the other hand, takes a narrow definition of the phase "high crimes and misdemeanors" and argues that an impeachable offense must be tantamount to an indictable crime—a far tougher standard than Berger's and one that would be most favorable to Mr. Nixon.

Rep. Thomas Railsback of Illinois, an influential Republican on the Judiciary Committee, questions the importance of historical precedent in guiding the committee's work.

"I don't think necessarily that every pronouncement by the founding fathers is going to have binding weight on what we do," Railsback said.

Alexander Bickel, a noted law professor at Yale Law School, also said that he does not think the "antiquarian aspects of the subject" should be decisive.

Bickel said that an impeachable offense need not be confined to indictable crimes. But he warned against using impeachments "as an ordinary kind of political technique to hold the president responsible as the executive is held responsible in a parliamentary form of government."

He added, "The framers didn't intend that and I use that as a kind of baseline. The danger of too broad a definition is that you encourage Congress to look at the polls and whenever it becomes politically popular, you fire the president. And perhaps it's just because he's Harry Truman and he's lost a lot of popularity by firing a Douglas MacArthur."

IMPEACHMENT: NIXON IN CRISIS—IV

(By Finlay Lewis)

WASHINGTON, D.C.—The ill-fated attempt to impeach Supreme Court Justice William O. Douglas has come back to haunt the Nixon Administration.

The move four years ago against Douglas, a liberal justice with outspoken views on social issues, was spear-headed by Gerald Ford, then Republican floor leader in the U.S. House and now vice president. Ford's efforts were greatly assisted by President Nixon, who pledged full cooperation with the investigation in a May 19, 1970, letter to the House Judiciary Committee.

Mr. Nixon wrote "The power of impeachment is, of course, solely entrusted by the Constitution to the House of Representatives. However, the executive branch is clearly obligated, both by precedent and by the necessity of the House of Representatives having all the facts before reaching its decision, to supply relevant information to the legislative branch, as it does in aid of other inquiries being conducted by committees of the Congress, to the extent compatible with public interest."

Thereafter hundreds of documents relating to Douglas, including highly personal files from the FBI, CIA and Internal Revenue Service, were made available to the impeachment investigators.

White House officials now say that the Nixon letter is "under study" by the President's lawyers. Their inquiry is evidently aimed at undercutting the claim that the

President's letter established a precedent obligating him to make a wholesale disclosure of personal records now that he is the object of an impeachment inquiry by the House Judiciary Committee.

The attack on Douglas died after a special subcommittee concluded that the charges against the justice were groundless and politically motivated.

Nonetheless, the Douglas issue demonstrates the difficulties that have plagued politicians ever since the framers of the U.S. Constitution decided that judges would hold office "during good behavior" and that all civil officers—including presidents and judges—would be impeachable for "treason, bribery or other high crimes and misdemeanors." The problem basically has been to define what that language means.

In launching his attack on Douglas, Ford offered a broad definition of the Constitution's impeachment clauses when he told the House that "an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history."

Later in the same speech he narrowed that definition somewhat when he said that presidents and vice presidents could be impeached by the House—and removed by the Senate—only for "crimes of the magnitude of treason and bribery." Then, in a recent interview program, Ford moved to Mr. Nixon's defense by saying that evidence to impeach a president must fall "within the specific definition under the Constitution."

The specific definition of an impeachable offense, however, has proven remarkably elusive.

The problems began in 1797 when the House voted its first articles of impeachment, against a U.S. senator from Tennessee named William Blount who was accused of plotting with England to overthrow Spanish control of territories in Florida and Louisiana. During the Blount trial Rep. James Bayard, one of the House "managers," or prosecutors, drew a conclusion that has been at the core of virtually every impeachment debate since the Constitution's inception.

"There may be cases appropriate for the exercise of the power of impeachment where no crime or misdemeanor has been committed," Bayard said.

That is not the modern day view of U.S. Rep. Edward Hutchinson of Michigan, the ranking Republican on the Judiciary Committee. In an interview Hutchinson asserted: "My own opinion is that a president ought not to be impeached except for an indictable offense which is so gravely offensive to society as to be intolerable."

U.S. Rep. Joshua Eilberg, D–Pa. and a committee member, disagrees. A president may be guilty of an impeachable offense if he commits an act which "shocks the conscience" even though it may not involve a criminal violation of the law, Eilberg said.

This argument was advanced successfully in 1912 when the House impeached a federal judge named Robert Archibald for exerting improper influence over litigants. The Senate, achieving the constitutional requirement of a two-thirds majority in impeachment cases, convicted Archibald, thus removing him from office, even though the House managers acknowledged that Archibald's activities "were not intrinsically wrong, and would have been blameless if committed by a private citizen."

Both sides buttressed their arguments by repeated references to English history, with the managers arguing that Parliament used impeachments as a political weapon against ministers, judges and other agents of the crown who committed political crimes against society.

Replied a lawyer for Archibald:

"Are you going back to the days when a man was impeached simply because he happened to have been put in office by those who have themselves just been turned out? If that is the view you are going to accept, then perhaps every four years in this country there will be a wholesale slaughter."

He concluded that the "best precedents show that, except for an indictable offense, no impeachment would lie under the laws of England."

Archibald was one of four federal officeholders who have been convicted and ousted from his post by the Senate. Eight others have been impeached by the House, of whom six were acquitted by the Senate. The other two officers resigned before their Senate trials.

Another conviction involved Halsted Ritter, a federal judge who was removed from office in the most recent Senate trial, in 1936. Ritter, a Republican appointed to the Florida district bench, was acquitted by the Senate of the first six articles of impeachment brought by the House, all of which alleged criminal conduct.

For example, one of those six articles accused Ritter of promoting a lawsuit in his court and accepting $4,500 from a former law partner out of the fees that the judge allowed in the case.

However, Ritter was convicted by a coalition of New Deal Democrats, liberal Republicans and Progessives on the final article, which accused Ritter simply of bringing his court "into scandal and disrepute."

Historian Irving Brant, in his book "Impeachment: Trials and Errors," argues that the Ritter and Archibald convictions created dangerous precedents that could erode the judiciary's independence and subvert the electoral process. "It extended an open invitation for political assaults on the legal or social philosophy of the Supreme Court," Brant wrote.

Raoul Berger, a Harvard law professor and author of an authoritative book on impeachment, takes a more sanguine view. Discussing the Ritter case he wrote: "The drawing of political lines goes to the motivation behind the given impeachment. The critical focus . . . should not be on political animous, for that is the nature of the beast, but on whether Congress is proceeding within the limits of 'high crimes and misdemeanors' and affording a fair trial."

The "political animus" described by Berger was clearly present when the partisans of President Thomas Jefferson engineered the first two judicial impeachments in the early 1800s. Both men—Judge John Pickering of New Hampshire and Supreme Court Justice Samuel Chase—were Federalists loyal to Jefferson's political enemies.

The Senate convicted Pickering, a senile, profane drunkard, but acquitted Chase, whose habit of delivering anti-Jefferson harangues to juries virtually invited impeachment. Chase was saved only after the Federalists, forming a solid phalanx in the Senate, coaxed some disenchanted members of Jefferson's Republican Party to join their ranks.

Now, once again, political lines are being drawn and the area for political maneuvering defined.

Said Rep. William Hungate, M-Mo. and a member of the Judiciary Committee: "There are some Democrats on the committee who would vote to impeach Nixon today. And there are a few Republicans who wouldn't vote to impeach Nixon if he were caught in a bank vault at midnight."

IMPEACHMENT: NIXON IN CRISIS—V

(By Finlay Lewis)

WASHINGTON, D.C.—President Nixon is not anxious to share Andrew Johnson's unique niche in history.

But comparisons are inevitable and, whatever else happens, it seems likely that future historians will note that Mr. Nixon became the second president in American history to fall into jeopardy of impeachment.

President Johnson owes his notoriety to the fact that on Feb. 24, 1868, he was impeached by the U.S. House of Representatives. However, he managed to finish his term when the U.S. Senate failed by one vote to muster the two-thirds majority required by the Constitution for conviction.

There are similarities as well as many striking differences between the two situations.

Both men, facing hostile Congresses, were accused during preliminary maneuvering, in the formal language of the Constitution, of impeachable "high crimes and misdemeanors."

And, as confrontation with the lawmakers neared, both attempted to go over the heads of their enemies and to rally public opinion by emotional assertions of innocence.

Johnson, the luckless inheritor of a nation torn by civil war, declared:

"I have been traduced, I have been slandered, I have been maligned, I've been called Judas Iscariot and all that. Now my countrymen here tonight, it is easy to call a man Judas and cry out traitor. But when he's called upon to give arguments and facts, he is very often found wanting."

Mr. Nixon, replying to a host of charges stemming from the Watergate scandal, felt compelled to resort to similar rhetoric when he asserted to the nation last fall that "I am not a crook."

To a certain extent, Mr. Nixon's fate now rests in hands other than his own. Much will depend on what happens in the next few weeks on a variety of fronts.

The House Judiciary Committee will decide what constitutes an impeachable offense and whether the evidence warrants further impeachment action by the full House against Mr. Nixon.

Grand juries will likely hand down more Watergate indictments, while trials proceed in different courts against former Nixon associates.

The Congressional Joint Committee on Taxation will decide whether Mr. Nixon was justified in taking large deductions that saved him more than $300,000 in taxes since taking office.

But, while all this is going on, Mr. Nixon's lawyers and advisers will be combing the records of the Johnson impeachment for any clues that will help them develop an effective strategy against those who claim that the president abused his powers and committed impeachable offenses.

The precedents in that case indicate that an extraordinary combination of events were necessary to precipitate impeachment.

A man of little formal education, Johnson was an outspoken Democrat from Tennessee with a deeply ingrained dislike of wealth and privilege.

He was the only Southern senator to oppose secession and the formation of the Confederacy—a fact that was very much on President Abraham Lincoln's mind when he named Johnson military governor of Tennessee after the Civil War erupted.

Then, in 1864, Lincoln asked Johnson to join him on the Union Republican ticket as the vice-presidential candidate.

So, when Lincoln was assassinated, it became Johnson's task to carry out a reconstruction policy that would reunite the nation after a bloody and bitter war.

It may well have been an impossible job.

Soon after taking office, he found himself locked in a power struggle with the Radical Republicans in the Congress over the direction of reconstruction.

An extreme fiscal conservative and an advocate of a limited federal government, he vetoed key pieces of Republican legislation—such as acts to establish a freedman's bureau and to protect civil rights.

Both measures—later passed over his veto—were part of a Republican design to make the newly freed slaves in the South politically and economically self-sufficient,

and, in the broadest sense, to preserve the fruits of the Union's military victory over the South.

As Johnson grew more alienated from the Republican-dominated Congress, he opposed the 14th Amendment, attempted to undercut the effectiveness of Northern troops sent to protect blacks and union loyalists in the South, and used patronage to place former rebels in positions of importance in newly formed state governments in the South.

Emotions ran high.

Said Sen. Charles Sumner of Massachusetts, a leading Radical Republican: "Andrew Johnson is the impersonation of tryannical slave plower. In him it lives again. Every sentiment, every conviction, every vow against slavery must now be directed against him. Pharos is at the bar of the Senate for judgment."

It was in this inflamed atmosphere that the idea of impeachment flourished.

The first attempt to mount an impeachment drive in the House failed in late 1867, in large part because a number of key congressmen felt it first necessary to show that Johnson had broken the law.

The problem was remedied by the Tenure of Office Act, which required the president to seek the consent of the Senate before firing a subordinate. A measure aimed at handcuffing the president, it was diluted somewhat by Senate conservatives who insisted that Cabinet officers should be included only for the term of the president who appointed them and for one month thereafter.

The act came into play as Johnson maneuvered to rid his Cabinet of the secretary of war, Edwin Stanton, a Lincoln holdover and a Radical Republican who leaked administration secrets to Johnson's enemies in Congress.

At first, Johnson tried to fire Stanton according to the terms of the act, but when the Senate refused to consent to the dismissal he abruptly ordered Stanton out of office.

Three days later, the House, functioning as a kind of political grand jury, voted impeachment.

The House "managers," or prosecutors then presented the Senate nine articles of impeachment relating to Johnson's violation of the Tenure Act, an article accusing Johnson of attempting to bring Congress into "disgrace" by intemperate speeches and another article attributing criminal intent to Johnson when he fired Stanton.

In fact, it was not clear that the Tenure of Office Act applied to Stanton because he originally was appointed by Lincoln, not Johnson. During the trial, the president's lawyers also attacked the measure's constitutionality—a point on which they were upheld many years later when the U.S. Supreme Court ruled it unconstitutional.

The opposing arguments by the House managers and by the president's lawyers by and large fell into the pattern of impeachment trials before and since.

One of the managers, Benjamin Butler of Massachusetts, asserted that an impeachable offense is one that is "in its nature or consequences subversive of some fundaental or essential principle of government or highly prejudicial to the public interest."

To transgress in this way, a president need not break the law but only has to abuse his "discretionary powers from improper motives or for any improper purpose," Butler said.

The president's lawyers were as narrow in their definitions of impeachable offenses as the managers were broad.

In this vein, one of Johnson's attorneys told the Senate that an impeachable offense must be synonomous with "high criminal offenses against the United States, made so by some law of the United States existing when the acts complained of were done."

In the end, Johnson was permitted to complete his presidency when seven Republicans defected and voted against impeachment.

The defections—and the acquittal—were caused by several factors. For example, there was genuine uncertainty in the minds of some about Butler's assertions concerning the breadth of impeachable offenses.

In addition, several of the conservative Republicans crossed party lines because they were appalled by the Radical Republican views of Benjamin Wade of Ohio, who as president pro tem of the Senate would have succeeded Johnson.

Wade was well known as an advocate of an expansionist, of "soft," money policy and of high tariffs, while the conservatives were committed to the reverse—tight money and low tariffs.

Equally significant in determining the outcome was Johnson's promise that he would be on good behavior during the balance of his term and would not pick any more fights with Congress.

In the present context, that would be equivalent to Mr. Nixon's attempts to persuade Congress and the people that there will be more "bombshells" stemming from the Watergate scandal.

IMPEACHMENT: NIXON IN CRISIS—VI

(By Finlay Lewis)

WASHINGTON, D.C.—A civil-rights lawyer in Washington predicts that "popular outrage" will force Richard Nixon's impeachment, while a Texas farmer complains that "biased news media" are trying to set aside the will of the majority.

Meanwhile, a member of the House Judiciary Committee, where the first major battles will be fought, grumbles privately about having to face a no-win situation. "I have Republican friends and Democratic friends. Somebody back there is gonna end up not likin' me," he says.

But to Charles Morgan, a lawyer who has fought on the side of the underdog for nearly 20 years in the South, the issue is clear cut.

"Hell, a service station operator in south Minneapolis who doesn't have any gas to pump knows what the facts are. Some things in life are pretty simple, like the difference between right and wrong. That's not much chance that he won't be impeached," Morgan said.

Morgan now is executive director of the Washington, D.C., chapter of the American Civil Liberties Union (ACLU). The ACLU is one of a number of traditional liberal pressure groups that have started lobbying to impeach Mr. Nixon and thereby bring him to trial before the bar of the Senate to defend his presidency.

But they are not going unopposed. In Providence, R.I., Rabbi Baruch Korff works out of a cramped set of offices with a skeleton staff of seven as he tries to keep up with a snowballing movement to defend the president.

Rabbi Korff can now pick up the telephone and talk long distance to any number of like-minded allies around the country, such as Donald Kendall, president of Pepsi-Cola and head of Americans for the Presidency, or a farmer in McAllen, Texas, named Othal Brand, founder of the Committee to Support the President.

Brand, who is quickly getting the hang of grassroots organizing, says he's speaking for a huge constituency when he says that his people are fed up with the anti-Nixon bias of the "Eastern news media and the liberal establishment."

"We're just damned tired of it, to speak in plain English," said Brand who described himself in an interview as "an independent Democrat."

Rabbi Korff's organization—the Committee for Fairness to the Presidency—has raised about $400,000 through advertising appeals since it was founded last July. Of that, about 90 percent is plowed back into a series of newspaper ads bearing such titles as "assassins," "the rape of America," and "Mr. President, we shall persist."

In ads, on television and radio talk shows and in interviews Rabbi Korff insists that Mr. Nixon has not committed an impeachable offense.

"What they lay out as grounds for impeachment are matters that have been committed by most of the president's predecessors. The Bay of Pigs was a far larger tragedy, precipitating far greater consequences than the Watergate breakin, which was stupid and puerile.

"But did the press or the Congress investigate the Bay of Pigs? The answer is no. It's this double standard that bothers me," Rabbi Korff said.

Rabbi Korff's opponents disagree with his analysis.

The ADA, the ACLU and the AFL–CIO have all compiled comprehensive catalogues of impeachable offenses which they believe can be pinned on the president. Some of the offenses involve alleged criminal violations of the law; others do not.

But perhaps the most thorough tract on the subject is one by William Dobrovir and three other lawyers. Relying mainly on court and congressional records, the four lawyers pulled together a 163-page book describing 28 indictable crimes that they attribute to Mr. Nixon.

The facts contained in the book are not new.

For example, the book describes the genesis of a domestic intelligence scheme, known as the Huston plan, in the summer of 1970. Never put into operation, it contemplated burglaries and the opening of mail as means of keeping tabs on subversives.

That was followed by the formation of the Plumbers unit in the White House to plug leaks of national security information. In the course of this mission, two members of the unit—G. Gordon Liddy and E. Howard Hunt—burglarized a psychiatrist's office.

Their purpose was to get information on a patient, Daniel Ellsberg, who was being prosecuted by the government for stealing the Pentagon Papers.

Another outgrowth of the Ellsberg case was the offer of the FBI directorship to Judge Matthew Byrne, who was presiding over the Pentagon Papers trial at the time. The offer was conveyed by John Ehrlichman, then one of Mr. Nixon's top aides.

Liddy and Hunt were later convicted for the aborted burglary and bugging attempt June 17, 1972, at Democratic national headquarters. Known as the Watergate case, several top presidential aides were indicted—and some pleaded guilty—as a result of attempts to cover up evidence about the burglary and other administration activities.

Another section of the book describes a series of controversial fund-raising ventures by the administration, including a $25,000 donation to Mr. Nixon's reelection by Minneapolis financier Dwayne Andreas. Shortly afterward, Andreas received a federal bank charter.

The book also rehashes allegations that pledges of financial support for Republican political causes prompted a settlement of an antitrust case against International Telephone and Telegraph Co. (ITT), as well as favorable government action on imports and price supports for dairymen.

The evidence, the lawyers argue, "is enough to establish Richard Nixon as a member—indeed the head—of a conspiracy that carried out illegal acts, and hence guilty of those acts; and to establish his complicity as one who caused criminal acts to be done."

A key element in their theory is the successful prosecution of Lucky Luciano, a notorious New York mobster who was con-

victed on 62 counts arising from his dealings in prostitution.

The Luciano case, the book says, established "the legal principle that the head of an organization is criminally responsible for the acts it carries out."

Luciano was convicted as a conspirator even though there was no evidence of his "direct participation . . . in any of the substantive offenses or even of his knowledge of any of the particular transactions," according to the authors.

While the book describes alleged criminal activities, the authors also note that the grounds for impeachment, as encompassed in the constitutional phrase "high crimes and misdemeanors," may include nonindictable acts, such as abuses of office or offenses against the Constitution.

Thus, the ADA's catalog of impeachable offenses includes such issues as the impoundment of congressionally appropriated funds and the secret bombing of Cambodia—neither of which is commonly thought of as a violation of the federal criminal code.

The question of whether impeachments must be limited to allegations of criminal misconduct has troubled politicians in both England and this country in the past, and it is likely to divide the Judiciary Committee in the coming weeks.

Raoul Berger, a Harvard law professor and author of an authoritative book on impeachment, said in a recent interview, "If we're talking about politics, we can agree that the Southern Democrats and moderate Republicans would find it easier to get behind impeachment were a criminal offense proven.

"But that's not a constitutional necessity."

Alexander Bickel, a noted Yale law professor, would exclude presidential activities that are "constitutionally questionable but also constitutionally plausible."

Thus, Bickel said in an interview that allegations of waging an illegal war should not be part of an impeachment proceedings.

On the other hand, he said, articles of impeachment can describe "political offenses in the sense that they don't have to coincide with the application of the criminal law."

He added, "Now what you're left with is a kind of middle ground, somewhere between things that may not quite be indictable offenses but at the same time aren't just a form of political dissatisfaction with the current incumbent."

CONSERVATIVE DEMOCRATS FIND ISSUE IS A HEAVY BURDEN—VII

(By Finlay Lewis)

WASHINGTON, D.C.—President Nixon normally can count on the votes of conservatives like Walter Flowers and James Mann when he needs a boost from Democrats in the U.S. House of Representatives.

But things may be different now that impeachment is the issue.

As members of the House Judiciary Committee, Flowers and Mann will have to weigh hard fact against constitutional principle in deciding whether to recommend that the full House impeach President Nixon for "high crimes and misdemeanors."

Their approach to the situation indicates the extent to which the unique pressures being generated by impeachment have blurred ideological allegiances and, in some cases, traditional partisan alliances in the committee.

In this regard, Mann and Flowers, both of whom represent districts in the South that voted heavily for the president in 1972, may play particularly significant roles since any move by the president's supporters to kill impeachment in committee would almost certainly require their support.

"I have a certain degree of independence. Politically, I can survive a vote either way," said Flowers, whose Alabama constituents gave 66 percent of their votes to Mr. Nixon in the last presidential election.

Impeachment would indicate that "Congress is merely doing its duty to police executive power," said Mann, who represents a South Carolina district where 80 percent of the voters favored Mr. Nixon in 1972.

Mann was given a 90 percent approval rating in 1972 by the Americans for Constitutional Action (ACA), a conservative organization that consistently supports a narrow interpretation of the U.S. Constitution.

Curiously, however, Mann endorsed in an interview one of the broadest and most permissive constitutional definitions of impeachment ever attempted in American history.

Asked to define an impeachable offense, Mann said he would be guided by the words of Benjamin Butler, one of the House "managers," or prosecutors, in the Senate trial of President Andrew Johnson in 1868.

In his argument before the Senate, Butler said:

"We define therefore an impeacheable high crime or misdemeanor to be one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an officials oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for any improper purpose."

Flowers, who was given a 68 percent rating in 1972 by ACA, said in an interview that an impeacheable offense need not be limited to criminal conduct but could encompass "substantial offenses," comparable in gravity to "treason or bribery."

At the same time, however, Flowers and Mann both balanced their views of impeachment by saying that they would require relatively high burdens of proof in weighing the evidence.

Both used the analogy that compares the House to a grand jury that indicts defendants in criminal cases.

Instead of an indictment, the committee and then the House will have to decide whether to approve articles of impeachment accusing Mr. Nixon of misconduct. If approved by a simple majority of the House, the articles would become the basis for a trial before the full Senate.

Sitting as a court with the chief justice of the United States presiding, the Senate would have to achieve a two-thirds vote of all senators present in order to convict Mr. Nixon on any article.

But conviction on one article alone would result in Mr. Nixon's removal from office.

Flowers said, "I'm going to look at this thing as though I'm a senator. I'm not going to pass the buck to the Senate and say, 'Here, you decide it.' I'm not going to vote impeachement as a House member unless I'd be willing to vote conviction as a senator."

The grounds for impeachment are spelled out in Article II, Section 4 of the Constitution: "The president, vice president and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

Impeachments in both England and this country have historically been based primarily on allegations of "high crimes and misdemeanors," But in almost every case, the defintion of that phrase has been a matter of dispute.

Generally, the opponents of an impeachment action adopt a restrictive definition by claiming that "high crimes and misdemeanors" must be interpreted as meaning only indictable crimes.

That is the position now taken by two of Mr. Nixon's strongest defenders in the Houses, Rep. John Rhodes, Republican floor leader, and Rep. Edward Hutchinson, ranking Republican on the Judiciary Committee.

"I do not subscribe to the broad view that separates impeachments from serious criminal misconduct. If that's not the test, then the whole procedure just becomes another political vote," Hutchinson said in an interview."

In a separate interview, Rhodes asserted that "Congress would be left adrift without an anchor" if the impeachment clause is interpreted too liberally.

However, that view is apparently not universally shared by other Republicans on the committee.

Rep. William Cohen, a highly regarded liberal Republican from Maine, said in an interview, "Of course impeachment is political. It's the legislature deciding whether to remove a member of the executive branch and it's political by definition."

The 33-year-old Cohen said that a president who "brings calumny or disrespect" on the office could be impeached. "What's important is that we have a meticulous and scrupulous adherence to the rights of the accused," Cohen said.

Another influential Republican on the committee, Rep. Thomas Railsback of Illinois, suggested that an attempt to subvert executive agencies of the government might be an example of an impeachable, but not indictable, offense.

Railsback said, however, that an impeachment action would hinge on establishing a "direct linkage with the president."

"In other words, it would be necessary to show that he had some knowledge, some degree of complicity—through participation in a conspiracy—in order to impeach," Railsback argued.

While there have been occasional squabbles over the scope of Chairman Peter Rodino's power, the committee has been relatively free of partisan wrangling.

Rodino, a New Jersey Democrat, and Hutchinson both agree that the committee's impeachment staff of 39 lawyers is professional and reasonably nonpartisan.

There are now six staff task forces, each assigned to investigate a facet of the Watergate scandal: Domestic surveillance instigated by the White House, including the operations of the notorious Plumbers squad; "dirty tricks" operations conducted on behalf of the president's reelection campaign in 1972; the burglary and bugging of Democratic national headquarters in Washington's Watergate office complex and the subsequent effort to cover up evidence of illicit administration activities; the president's personal finances, including his tax returns; attempted use of federal agencies to harass enemies and questionable campaign fund raising practices; and other charges of misconduct, such as fund impoundments and the secret bombing of Cambodia.

But the staff's most immediate assignment is to present the committee with a report on the threshhold question of what constitutes an impeachable offense.

The committee and staff have now worked out procedures for issuing subpoenas that are satisfactory to both Rodino and Hutchinson. More importantly, perhaps, Democrats and Republicans alike in the Congress appear solidly convinced that the doctrine of executive privilege cannot be asserted to frustrate an impeachment inquiry and that the committee has a right to subpoena relevant evidence from Mr. Nixon's files.

The committee has yet to agree on a deadline for submitting a final report on impeachment to the full House. A Republican attempt to insist on an April 30 completion date was firmly rejected by the House.

Several top staff members feel that they will not be able to complete their investigation before June, according to one commit-

tee informant. However, he added, political pressures could force an earlier committee vote.

Complicating the situation is the possibility that the committee may wind up in a time-consuming lawsuit with the White House over the validity of its subpoenas.

So far, the committee's approach to impeachment appears to have been sober and deliberate.

One of its members, Rep. Barbara Jordan of Texas, said during an interview telecast by the Educational Broadcasting Corp., "I, as a Democrat, take no joy and no comfort in the prospect of having to vote on impeachment of the president of the United States. That is not something any sane, rational person who cares about the Republic and how it stands could take joy and comfort in doing."

PROTECTION FOR OUR NATURAL RESOURCES

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, today I have introduced a resolution urging that the United States, as a national policy, make every effort to encourage and require the export of finished materials, rather than our basic natural resources.

This Nation, so rich in natural resources, currently faces shortages of such basic materials as copper, wheat, cotton, logs, fertilizer, petrochemical feedstocks, and others.

Part of the reason is exports.

These shortages have a twofold negative impact on our economy. They are cutting into our work force, which normally would be turning these basic resources into finished products; and they are driving up consumer prices.

This resolution would put the House on record as strongly favoring a policy to protect these vital natural resources until our own needs are filled. At the same time, it puts the House on record as strongly favoring an export policy which would encourage the export of finished products—manufactured by American workers.

How many American millers would it have taken, how many hours of pay into American pockets, to convert last year's massive shipment of wheat to Russia into flour?

How many American workers would have jobs if we were exporting finished lumber, plywood, or even completely finished products like furniture to Japan, instead of selling Japan logs off our taxpayer-owned lands?

How many American textile workers would be on payrolls instead of unemployment or welfare, if we were shipping cloth—or even thread—overseas, instead of raw cotton? And a lot of that cotton comes back to the United States as finished products, anyway.

The primary purpose of this resolution is to put firmly on the record our national desire to protect our resources and make jobs for American workers.

The secondary purpose of this resolution is to send a strong message to our colleagues in the Senate that the House meant what it said last September when it passed H.R. 8547, amending the Export Administration Act of 1969.

That bill would write this concept into law. Unfortunately, consideration of that bill has been indefinitely postponed in the Senate.

Mr. Speaker, I am not an isolationist—far from it. I believe a healthy international trade situation reinforces a healthy American economy.

At the same time, though, I cannot see where the export of American raw materials and natural resources, coupled with the subsequent import of finished products from foreign manufacturers employing foreign workers, is of any benefit to the American economy.

I urge the House to act on the resolution at the earliest possible time to underscore strongly the fact that this body is serious about this concept.

A GREAT MAN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, a great man and a great American is a dear friend of my wife and myself and lives on Miami Beach. He is Baron Vladimir Kuhn von Poushental who was born in Russia of a distinguished family and fought in the White Russian Army during the Revolution. After the White Russian Army was defeated he fled to Ameria in 1918. His accomplishments in this country have been numerous and outstanding. The first I shall mention is his association with an old pilot friend and fellow Russian refugee, Dr. George de Bothezat, who developed the first prototype helicopter. Dr. de Bothezat died in 1940. Recently, Baron von Poushental, who had been in business with de Bothezat, collected and cataloged the latter's record and data concerning the first prototype helicopter and presented all that invaluable material to the Superintendent of the U.S. Air Force Academy at Colorado Springs, Colo. The account of that presentation appears in a publication, Realtor, volume 40, No. 2, published January 8, 1973. This is such interesting aviation history that I know my colleagues and my fellow countrymen who read this record will be pleased to learn that long before the Sikorsky helicopter was developed this prototype helicopter of Dr. de Bothezat was developed with high efficiency.

The second outstanding accomplishment of Baron von Poushental was in the establishment of a Russian colony of White Russians in the vicinity of Richmond, Maine. Baron von Poushental acquired the land and provided for its acquisition by the White Russians and helped to develop a complete and successful Russian colony with schools, churches, and other institutions reflecting their ancient Russia of which these people of Russian background so vividly remembered and so much loved. This program of Baron von Poushental which led to the successful development of this great colony was also a momentous contribution to our own country. In the Lewiston Evening Journal there is a very interesting article about Baron von Poushental's work in the establishment and development of this colony and reflecting the great success of the colony.

Mr. Speaker, I include the article to which I referred from the Realtor and the article to which I averted from the Lewiston Evening Journal about the Russian colony and also about Baron von Poushental presenting the papers of Dr. George de Bothezat to the Superintendent of the U.S. Air Force Academy in the RECORD following my remarks. I also include, following these insertions, two letters to Baron von Poushental dated January 28, 1972, and February 7, 1972, from the U.S. Air Force Academy, the first about the de Bothezat materials and the second about the Russian colony to which I referred:

[From Realtor, Jan. 8, 1973]

Baron V. Kuhn von Poushental, after the White Russian Army was defeated in the Crimea, fled to America in 1918 and quickly sought out his former pilot friend and fellow refugee, Dr. George de Bothezat. The latter was a mechanical genius who shortly thereafter was commissioned by the U.S. government to build a radical new aircraft, based on an aeronautical theory de Bothezat had evolved. The result—the prototype helicopter, built in 1922—lifted 4,400 pounds using a 170 horsepower engine. This was a ratio of more than 20 pounds per unit of horsepower, an efficiency of performance the Realtor® says he has not since been achieved.

Following de Bothezat's death in 1940, Baron von Poushental, who had been briefly in business with the inventor, commenced collecting and cataloging the latter's records, consisting of four original manuscripts, eight typed scripts, 62 photos of the first helicopter flight and historical records of de Bothezat's private helicopter companies.

The culmination of von Poushenthal's devotion to his friend and mentor came last August, when he was invited by the superintendent of the U.S. Air Force Academy to present the de Bothezat materials for permanent storage at the academy's library, where they are available for study by cadets, faculty and scholarly researchers.

In a letter to the donor, Lt. Gen. A. P. Clark, superintendent of the academy, said in part, "You may be sure these papers will be reviewed by cadets for years to come, for their historical significance as well as the unique record of one of our pioneers in aviation. The academy library and cadets are enriched by your generous contribution."

[From the Lewiston (Maine) Journal, Oct. 21, 1972]

RICHMOND'S TALENTED RUSSIAN COLONY

(By Priscilla E. Braun)

Richmond on the Kennebec is the hub of activity for the Russian people in the area. Four churches, a Russian restaurant, cobbler shop and a rest home are located in the village.

How did a small Maine community happen to draw people from a completely different tradition?

Baron Kuhn Von Poushental was on a duck hunting trek in this area about 1940. Bearing in mind the large number of Russian refugees nearing retirement he brought up land at bargain prices, advertised through the Russian language newspapers, and resold to those who yearned to spend their last years on their own land. The Richmond area bears a striking similarity to the Russian countryside. People have settled throughout Whitefield, Dresden, Pittston, Bowdoinham, Litchfield, and Richmond.

To group these people under the title "Russians" is inaccurate. They are usually victims of changing politics in Russia, Ukrania, Poland, Lithuania, and other iron curtain countries. The one thing they usually

have in common is language. Their political beliefs cover the spectrum of revolutions since 1900.

LOOKED LIKE RUSSIA

Baron Von Poushental tells about his hunting trip which first brought him here. His party was coming up the Kennebec River following the flight of the ducks when the birds changed direction to follow the Eastern River. The hunters followed and discovered a section of the state that was strikingly similar to the hills around Moscow.

After the duck season closed the Baron did more exploring. The land had recently been burned over on the Richmond side, above Swan Island, so many owners who had lost their homes were willing to sell the land which seemed worthless at the time, very quickly and cheaply. A financial depression hovered over this section of the state throughout the '40s, and early '50s.

Before Poushental could proceed in making his secret dream come true he wrote the Governor and the Secretary of State in Main, proposing a Russian community of immigrants. The answers were favorable.

One of his first purchases was a block of land comprising about 500 acres which he gave to the proposed Alexander Nevsky Foundation, another of his dreams.

FOUNDED FOUNDATION

To convert this dream to reality he founded the organization, named for a Russian warrior saint who drove back the Tartars, in hopes that the White Russian immigrants could come and work the land at the same time maintaining a military organization prepared to fight Communism on any front at a moment's notice.

The organization survived for a few years, but has now lost its military character. An old folks home and hotel are now maintained by the foundation.

The man who dreamed dreams and made them come true, Kuhn Von Poushental was born in Tifils, Russia, in 1899, the son of a general in the Czar's Military Engineering Corp.

Poushental's family had vast land holdings in the old Austria-Hungarian empire, but his great-grandfather had been forced off the land after an unsuccessful coup. The Czar took the family land in Russia.

In his youth Kuhn, whose friends address him as Val, attended Polytechnical Institute in St. Petersburg. At 16, he joined the Imperial Army and attended Micharlovsky Artillery and Naval Aviation School in Baku, Caucasus.

PIONEER COMBAT PILOT

He became one of the first combat pilots in the Russian Army. When America was bombing Germany in World War One, he was bombing Constantinople. At this time the Russian peasants, who were seeing planes for the first time, called them "fairy tale giants":

As the tide of Russian politics changed the Czars troops were ordered not to obey their officers so Poushantal went to Kiev to join the White Russian Army which was later defeated in the Crimea in one of the first fights against communism.

In Turkey, where he found refuge, he lived on an estate outside of Constantinople. He earned a living by hunting ducks which were sold for a dollar. He could shoot a hundred in a couple of days.

About this time Poushental learned that his entire family had been killed in the Revolution so he decided to indulge his childhood goal of coming to America "to see the cowboys and Indians".

Upon arrival here he sought a friend from his pilot days. Dr. George de Bothezat, who had evolved a new theory of propellors and air screws. De Bothezat was commissioned by the United States Government to build his new plane about 1922.

The company formed for this enterprise was Helicopter Corporation of America with the Baron as General Manager, but de Bothezat soon died and with him went his secret plans for future aviation developments.

Poushental spent most of his time in Florida. The trophies which ornament the walls of his A-frame home in Pittston are vivid proof that he found time to go big game hunting on all the continents of the world. His summer home was built after the Russian colony in Maine was established.

GIVEN MANY HONORS

He bought many Maine farms and homes as they became available and then resold them to other Russian immigrants. This is a continuing project with him as manager of Kennebec Realty Company and a member of the Androscoggin Board of Realtors.

Poushental is one of the Knights of Malta a religious and military Knight order which is devoted to character building, education, humanitarian pursuits and Christian unity. Among its members is the Queen of England. He hold an eight point Maltese Cross of the Order of St. John of Jerusalem a sovereign religious and military order of the Catholic Church.

Now a man of 73, he divides his time between his summer home in Pittston and winter home in Florida. He says he founded the colony as a refuge of White Russians who helped in the fight against Communism, but the colony now encompasses many other middle European refugees.

A misconception about the refugees is common. They are not segregated into one part of town as people tend to think. They are our friends and neighbors. We are thoroughly integrated.

Out-of-town vistors are inevitably taken to the Russian restaurant on Main Street. The food is as simple or elaborate as you desire. Fancy cookies and pastries are always available there from Mr. Denisow or his wife. The display windows are always resplendant with flowering plants.

FOUR CHURCHES

There are four Russian churches in Richmond. Probably the smallest is a fundamentalist type church in the parlor of a Darrah Street home. Next in size is the Ukranian Church. The other two are Russian Orthodox.

St. Nicholas Church is owned by its local parisnioners and St. Alexander Nevsky is owned by the Russian Orthodox Church Outside of Russia based in New York. Originally the churches were a unit but some members split off because they felt this was a new country with new rules and that individual churches should own their own buildings. Pastor at St. Nicholas is Father Konstantine Nawereshsky.

He explained the K on his first name by saying that the first country of departure often determines the spelling of one's name.

Russian script is very different from ours so spellings are often confusing. The priest went to Germany first so his name was germanized with the K. Refugees fleeing through Latvia were required to add an S on to their names.

THE ACADEMY LIBRARY,
USAF Academy, Colo., January 28, 1972.

Baron V. KUHN VON POUSHENTAL,
Miami Beach, Fla.

DEAR SIR: Colonel Macartney was good enough to share with me your most delightful and informative letter of January 22, to him.

Your suggestion to bring all of your materials when you come to Colorado Springs is extremely appealing. This would allow representatives from my staff and from the Department of History to review the collection with you. Just in case you find it more convenient to mail the Bothezat materials in advance of your journey, I am enclosing two franked mailing labels addressed to this Library. We would, of course, safely keep the collection until your arrival.

Colonel Macartney and I look forward to your visit this summer. It will be a personal honor to meet you.

If this Library can be of service to you, please let me know.

Sincerely

CLAUDE J. JOHNS, Jr.,
Lieutenant Colonel, USAF, Professor of Political Science and Director of Libraries.

THE ACADEMY LIBRARY,
USAF Academy, Colo., February 7, 1972.

The Right Honorable LORD VON POUSHENTAL,
Miami Beach, Fla.

SIR: It was most kind of you to send us the magazine article entitled "The Russian Who Invaded America and Founded a New World Colony." Your story is a fascinating one, and I enjoyed reading it so very much, as did Colonel Macartney.

We will add your letter and the clipping to our historical archives. Thank you so much for your thoughtfulness.

Best regards.

Sincerely

CLAUDE J. JOHNS, Jr.,
Lieutenant Colonel, USAF, Professor of Political Science and Director of Libraries.

BOB HOPE DINNER

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on the 23d of February the 15th annual Bob Hope Dinner for the National Parkinson Foundation was held at the Fontainebleau Hotel in Miami Beach. Mrs. Pepper, National Chairman of the Women's Division of the National Parkinson Foundation, was chairman of the dinner. One of the outstanding financial leaders of the Miami area, E. Albert Pallot, was the very able master of ceremonies for the occasion. Present as usual was a great lady, Mrs. Jeanne Levey, president of the National Parkinson Foundation, who with her husband founded the National Parkinson Foundation in 1957 and continues the dynamic, compassionable, driving force behind the National Parkinson Foundation and the National Parkinson Institute in Miami supported by the National Parkinson Foundation. There are approximately 1 million victims of Parkinson's disease in the United States every year. The National Parkinson Foundation at its institute in Miami has the largest single concentration of Parkinson patients to be found anywhere in the world.

Bob Hope for 15 years has attended this great dinner and at each dinner has gathered together and presented to the large audience always attending this dinner the outstanding nationally known performing stars in Miami Beach and adjacent areas for the entertainment of the audience. Bob Hope gives his own inimitable performance. In addition, he has for all these years given a very generous personal contribution to the National Parkinson Foundation. This year the occasion was heightened by the performance of Mrs. Bob Hope, Delores, who with Bob was celebrating their 40th wed-

ding anniversary. There was a colorful program commemorating their anniversary in which many eulogies were paid to Bob and Delores and a huge cake was presented to them.

The occasion this year was all the more significant for the Parkinson Foundation because just previous to the dinner there had been the groundbreaking in Miami for a three-story addition to the National Parkinson Institute to further research in Parkinson's disease. This center is to be known as the Bob Hope Parkinson Research Institute. Attending were Bob Hope, Mrs. Levey, Mrs. Pepper, Honorable Maurice Ferre, mayor of Miami, Honorable Chuck Hall, mayor of Miami Beach, and many other local officials. Among the many other distinguished persons present were Dr. Leo Fox of the National Neurological Institute of the National Institutes of Health, Dr. E. M. Papper, Dean of the University of Miami Medical School, and Dr. Edwin N. Boyle, Jr., Director of Research at the Miami Heart Institute. This addition to the Parkinson Institute will enable the institute to carry on a much more extensive program in Parkinson's disease than has heretofore been possible. The new Bob Hope National Parkinson Research Center will have a National Research Council guiding its work, consisting of some of the highest level scientists in the United States knowledgeable in the area of Parkinson's disease. A colorful account of this always exciting dinner was carried in the Sun Reporter of Miami Beach Wednesday, February 27, 1974, by Betty Wickwire.

Mr. Speaker, I ask that the article by Mrs. Wickwire appear in the body of the RECORD following my remarks:

BOB HOPE DINNER A STAR-STUDDED SUCCESS

Delores and Bob Hope, celebrating their 40th wedding anniversary, were super stars of the 15th annual Bob Hope Dinner at the Fontainebleau. For more than ten years Bob has been honorary chairman of this benefit for the National Parkinson Foundation. He is also national honorary chairman of the board of directors.

After Bob's traditional all-star show with Ann-Margret, Mel Torme, Anita Bryant and many more participating, pretty Delores Hope came on stage to sing "It Had to be You", "The More I See You"—and then Bob joined her for a duet. Bob's tap dancing brought another round of applause. The Hopes received a gift and a huge wedding cake was brought on stage. Later in the evening Marie (Mrs. Henry) Balaban dedicated a song to Bob. You just can't do enough for a great guy like Hope who generously donates money as well as talent to Parkinson.

Mrs. Jeanne Levey, chairman of the national board of directors of the Parkinson Foundation, was at the head table along with Rep. Claude Pepper who spoke about eventful 1974 that would mark the construction and completion of the Bob Hope Parkinson Research Institute in Miami.

Mrs. Claude Pepper, national chairman of the Women's Division was chairman of the dinner. Her co-chairman was Toby Wing (Mrs. Richard) Merrill. Coordinators were Mrs. Kenneth Heisler, Charlotte Dickson and Dr. and Mrs. Lawrence Hastings. (Mildred Pepper's black and white gown was purchased in Spain last summer.)

Albert Pallot was master of ceremonies. Rabbi Irving Lehrman gave the invocation. Patrons of the year were Jacob Seidman, Louis Hamburger and Morris Kleinman.

The Peppers hosted a large group that included Frank Copa, aid to Mayor Maurice Ferre who was unable to attend; James Brennan, Jr. and daughter Jogi; Clyde L. Webster, Mildred Pepper's brother who came down from Arlington, Va.; Ellis Vaughn and his date Anita Bjork; Bill Apfel, Terry Anderson, Mrs. Stacey Kaplan, Brad Coverhouse from Fort Pierce; Dr. and Mrs. Leo Fox from the National Institute of Health; Reggie March.

Jordan Davidson escorted Celia Landis and Lee di Filippi to the dinner. Elise Adams, Dr. and Mrs. Edwin Boyle and the Charles Poyers were more.

Betty and Suart Patton were with the Fred Hoopers. Ben Novack, celebrating his birthday, hosted a table that included Suzie and Louis Rogers, Michelle and Richard Marx, Rex Rand and others.

John Oxley and son Tom of the Royal Palm Polo Club came down from Boca Raton. More dinner goers were the Harry Brodies, the Paul Bruuns, Dr. and Mrs. David Pinks and Dr. and Mrs. Seymour Fine. The Fines daughter Else (Mrs. William) Springer has a new baby girl—Greta Marie.

RUTH KASSEWITZ

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the most vital ladies of the Greater Miami area, indeed Florida and the country, is Ruth Kassewitz, director of communications for the Metro Government of Dade County and wife of Jack Kassewitz, editor of the Miami Beach News. Mrs. Kassewitz is a dynamic lady who has had an exciting career in civic affairs, in business, and in government, also as a wife and mother. One thing that distinguishes her, as a friend says, is that she is always learning, always searching for higher goals. Mrs. Kassewitz is a stimulating example of women who can be a lovely lady, a good wife and mother, and yet have a distinguished career and contribute much to the betterment of her community, State, and country. Mr. Speaker, the very interesting article appearing in the March 3, 1974, issue of the "Sun Reporter" about Mrs. Kassewitz, appears in the RECORD immediately following my remarks:

SHE IS ALWAYS LEARNING, SEARCHING FOR GOALS

(By Annette Brin)

When people say they believe that everything happens for a reason, there is at least one woman in Coral Gables who would certainly agree. Her name is Ruth Kassewitz, director of communications for Metro.

She graduated from Ohio State University in 1951 with a major in journalism management—a split between journalism and business administration.

Following graduation Mrs. Kassewitz took a job as copy writer with Ohio Field Gas Company. She was in charge of producing material for the print media.

After a time she moved to Kansas City and began working for an advertising agency dealing with car sales, road equipment and fork lift trucks.

During this period one of the "bridges" in Mrs. Kassewitz' life began to build which ultimately led her to Dade County.

"My grandfather many years ago purchased the Magnolia Arcade in St. Petersburg," she said, "and my dad always wanted to come to Florida. Unfortunately, he died before realizing his dream. But my brother Dick, while I was in Kansas, decided to transfer to the University of Florida from Ohio State University. He later married and moved to Daytona."

During a two week vacation in Florida, supposedly to visit her brother and sister-in-law, Mrs. Kassewitz actively sought out new employment. She landed a job with Grant Advertising and in 1956 moved to Miami.

"Grant did a lot of work for Florida Power and Light," she recalled, "and I had to learn to write about electricity. It was quite a switch from my old days with the gas company."

She worked for the Grant agency for two and a half years, during which time she switched from FP&L copy and found herself doing a great deal of public relations work in other areas of the Grant operation.

"When FP&L asked me to come back and write copy for them I declined, realizing that I loved the extroverted atmosphere of public relations," she said.

She joined the Florida Public Relations Associates, The Advertising Club of Greater Miami and Women in Communications (formerly Theta Sigma Phi), when her interest in public relations was triggered. In 1959 she became the first woman to serve on the board of directors for the Advertising Club of Greater Miami.

In 1960 she became an Account Executive with Buildorama under Venn-Cole and Associates and worked with her first secretary. Together they put out a bilingual newsletter. It was during this time that she met her husband—Jack Kassewitz, now chief editorial writer for The Miami News.

"That was in 1961," she recalled. "I used to walk into The Miami News with stories. I was awed by the size of the city rooms in both The Miami Herald and The News. Jack used to sit near the entrance when I walked in and he always had such a bright smile and friendly hello. He was in charge of one of the paper's special sections at the time."

Later in 1962, Jack began courting Ruth. He proposed to her in Palm Beach while she was in charge of the Parade of Homes through Buildorama.

"He used to come up and see me and during the weekend of the opening he proposed." On July 28, 1962, Ruth became Mrs. Jack Kassewitz.

Later Bill Venn began his own corporation and Mrs. Kassewitz became an executive vice president in the Venn Corporation. One of her last responsibilities while with the corporation was handling public relations with concerns in the Bahamas. This began construction of still yet another "bridge" in her life.

It was during this time that she met architect Ed Grafton, then president of the American Institute of Architects. In 1969 Grafton offered her a position as Director of Communications in his firm. Her job was to promote his work locally, which included the Dade School Board, Miami-Dade Community College and more significantly for Mrs. Kassewitz, HUD.

"Ed was busy working with the then Model Cities Director Gordon Johnson to get funding for the project," Mrs. Kassewitz said. "They were up against a deadline and needed someone to coordinate the material and have it ready on time. I was selected. I hired several Kelly Girls and together we typed the paperwork and got it off to Atlanta."

Her efficient handling of the Model Cities paperwork was never forgotten and later Johnson asked her to become the first Director of Communications for HUD.

"I created their department," she said. "It was a marvelous challenge and a great position. The information I learned during those two years was invaluable."

County Manager Ray Goode met Mrs. Kassewitz during this time and when he decided that Metro needed its own office of communications, Mrs. Kassewitz was asked to head the department, crossing another "bridge."

"This position is the most challenging I have ever held," she said. "Feeling as I do that Metro is doing a good job for the people, it is not difficult for me to attempt to convey this to the people. The methods and wherefores, however, are a challenge."

Although her husband's job and her position could cause conflict in many homes, Mrs. Kassewitz said that this has never been a problem in their lives. Neither have their different religious backgrounds. Mrs. Kassewitz belongs to the Plymouth Congregational Church. Jack Kassewitz is Jewish.

"I work hard for my church and Jack attends our 'stately' events. At other times we go to synagogue together. I think our marriage has helped to unite a lot of people of varying backgrounds."

Always learning and searching for higher goals, Mrs. Kassewitz is now president of the University of Miami Women's Guild.

"I just believe that I should be active in my community," she said.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MITCHELL of Maryland (at the request of Mr. O'NEILL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COHEN) to revise and extend their remarks and include extraneous material:)

Mr. MCDADE, for 10 minutes, today.
Mr. CONABLE, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. CRANE, for 5 minutes, today.

(The following Members (at the request of Mr. VANDER VEEN) to revise and extend their remarks and include extraneous material:)

Mr. DIGGS, for 5 minutes, today.
Mr. EILBERG, for 5 minutes, today.
Mr. KASTENMEIER, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. FOUNTAIN, for 5 minutes, today.
Mr. MATSUNAGA, for 15 minutes, today.
Ms. ABZUG, for 10 minutes, today.
Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FRASER and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,045.

Mr. BROOMFIELD to revise and extend his remarks and include extraneous matter during debate on education bill at the time of introduction of the Esch amendment.

Mr. PODELL, immediately following the remarks of Mr. QUIE on the Peyser amendment in the Committee of the Whole today.

Ms. ABZUG to revise and extend her remarks on the Peyser amendment following the remarks of Mr. QUIE.

Ms. ABZUG to revise and extend her remarks on the Brademas amendment following the remarks of Mr. BRADEMAS.

Mr. BIAGGI to revise and extend his remarks on the Peyser amendment immediately following the remarks of Mr. PEYSER.

(The following Members (at the request of Mr. COHEN) and to include extraneous material:)

Mr. BELL.
Mr. KEMP in three instances.
Mr. BOB WILSON in three instances.
Mr. SARASIN in two instances.
Mr. ZION.
Mr. WYMAN in two instances.
Mr. HOSMER in two instances.
Mr. WALSH in two instances.
Mr. BAUMAN in five instances.
Mr. MICHEL in five instances.
Mr. ZWACH.
Mr. ERLENBORN in two instances.
Mr. YOUNG of Florida in three instances.
Mr. ANDERSON of Illinois in three instances.
Mr. ABDNOR.
Mr. GILMAN.
Mr. WINN.
Mr. HUBER in two instances.
Mr. GROVER.
Mr. FISH.
Mr. SHRIVER in three instances.
Mr. CAMP.
Mr. MCCLORY.
Mr. CARTER in five instances.
Mr. LENT in two instances.
Mr. COUGHLIN.
Mr. KETCHUM.
Mr. DEVINE.
Mr. DERWINSKI.
Mr. GOLDWATER.

(The following Members (at the request of Mr. VANDER VEEN) and to include extraneous material:)

Mr. SHIPLEY.
Mrs. SULLIVAN.
Mr. HAMILTON in two instances.
Mr. BRINKLEY.
Mr. BADILLO in three instances.
Mr. STARK in 10 instances.
Mr. BENNETT in two instances.
Mr. DINGELL in five instances.
Mr. CAREY of New York in four instances.
Mr. SYMINGTON.
Mr. SISK.
Mr. CARNEY of Ohio in two instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. STOKES in six instances.
Mr. SIKES in five instances.
Mr. HANNA in four instances.
Mr. TIERNAN.
Mr. FOUNTAIN.
Mr. PATTEN.
Mr. VAN DEERLIN.
Mr. HAWKINS.
Mr. MOSS.
Mr. REUSS in five instances.
Mr. MURPHY of New York.
Mr. COTTER in five instances.
Mr. BURKE of Massachusetts.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 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, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3228. An act to provide funeral transportation and living expense benefits to the families of deceased prisoners of war, and for other purposes.

ADJOURNMENT

Mr. VANDER VEEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 27, 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:

2090. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to transfer the duties and authority of the Director of the Office of Economic Opportunity, under the Economic Opportunity Act of 1964, to the Secretary of Health, Education, and Welfare, and for other purposes; to the Committee on Education and Labor.

2091. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on resource recovery and source reduction, pursuant to 42 U.S.C. 3253a(a); to the Committee on Interstate and Foreign Commerce.

2092. A letter from the Secretary-Treasurer, Congressional Medal of Honor Society of the U.S.A., transmitting the financial report of the Society for calendar year 1973, pursuant to Public Law 88-504; to the Committee on the Judiciary.

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. BRADEMAS: Committee on House Administration. House Resolution 989. Resolution to provide for the printing of additional copies of a report of the Select Committee on Committees (Rept. No. 93-935). Ordered to be printed.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 10942. A bill to amend the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended, to extend and adapt its provisions to the Convention between the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment, concluded at the city of Tokyo, March 4, 1972; with amendment (Rept. No. 93-936). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 11223. A bill to authorize amendment of contracts relating to the exchange of certain vessels for conversion and operation in unsubsidized service between the west coast of the United States and the territory of Guam (Rept. No. 93–937). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 12208. A bill to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign and domestic offshore commerce (Rept. No. 93–938). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 886. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 163 (Rept. No. 93–939). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 916. Resolution providing funds for the Committee on Interstate and Foreign Commerce (Rept. No. 93–940). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 920. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 19 (Rept. No. 93–941). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 945. Resolution providing funds for the expenses of the Committee on Ways and Means in the second session of the 93d Congress (Rept. No. 93–942). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 952. Resolution to provide funds for the expenses of the investigation and study authorized by House Resolution 267, 93d Congress (Rept. No. 93–943). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 957. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 162 (Rept. No. 93–944). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 987. Resolution to provide additional funds for the expenses of the investigation and study authorized by House Resolution 228 (Rept. No. 93–945). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 1003. Resolution providing funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the House of Representatives and for the investigation of additional computer services for the House of Representatives (Rept. No. 93–946). Referred to the House Calendar.

Mr. CLARK: Committee on Merchant Marine and Fisheries. H.R. 8586. A bill to authorize the foreign sale of the passenger vessel steamship *Independence*; with amendment (Rept. No. 93–947). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. S. 1585. An act to prevent the unauthorized manufacture and use of the character Woodsy Owl, and for other purposes; with amendment (Rept. No. 93–948). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1009. Resolution providing for the consideration of H.R. 12799. A bill to amend the Arms Control and Disarmament Act, as amended, in roder to extend the authorization for appropriations, and for other purposes. (Rept. No. 93–949). Referred to the House Calendar.

Mr. McSPADDEN: Committee on Rules. House Resolution 1010. Resolution providing for the consideration of S. 628. An act to amend chapter 83 of title 5, United States Code, to eliminate the annuity reduction made, in order to provide a surviving spouse with an annuity, during periods when the annuitant is not married. (Rept. No. 93–950). Referred to the House Calendar.

Mr. MAHON: Committee on Appropriations. House Joint Resolution 941. Joint resolution making an urgent supplemental appropriation for the fiscal year ending June 30, 1974, for the Veterans' Administration, and for other purposes. (Rept. No. 93–951). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 13542. A bill to abolish the position of Commissioner of Fish and Wildlife, and for other purposes. (Rept. No. 93–952). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of conference. Conference report on S. 2747 (Rept. No. 93–953). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONABLE:

H.R. 13720. A bill to amend title XVIII of the Social Security Act to establish a program of long-term care services within the medicare program, to provide for the creation of community long-term care centers and State long-term care agencies as part of a new administrative structure for the organization and delivery of long-term care services, to provide a significant role for persons eligible for long-term care benefits in the administration of the program, and for other purposes; to the Committee on Ways and Means.

By Mr. COHEN (for himself and Mr. HASTINGS):

H.R. 13721. A bill to establish a Health Education Administration within the Department of Health, Education, and Welfare and to provide for the development and implementation of a national health education program; to the Committee on Interstate and Foreign Commerce.

By Mr. DEVINE:

H.R. 13722. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to prohibit the Secretary of Transportation from imposing certain seatbelt standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN:

H.R. 13723. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 13724. A bill to amend section 1951, title 18, United States Code, act of July 3, 1946; to the Committee on the Judiciary.

H.R. 13725. A bill to amend title 5 of the United States Code with respect to the observance of Veterans' Day; to the Committee on the Judiciary.

H.R. 13726. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 13727. A bill to amend title 38 of the United States Code so as to make presumptions relating to certain diseases applicable to veterans who served during the period between the end of World War II and the beginning of the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. HAYS:

H.R. 13728. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to prohibit the Secretary of Transportation from imposing certain seatbelt standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 13729. A bill to insure that each admission to the service academies shall be made without regard to a candidate's sex, race, color, or religious beliefs; to the Committee on Armed Services.

H.R. 13730. A bill to prohibit Soviet energy investments; to the Committee on Banking and Currency.

By Mr. O'BRIEN:

H.R. 13731. A bill to authorize a national summer youth sports program; to the Committee on Education and Labor.

By Mr. PODELL:

H.R. 13732. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers; to the Committee on Interstate and Foreign Commerce.

By Mr. PREYER:

H.R. 13733. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. ROE (for himself and Mr. RIEGLE):

H.R. 13734. A bill to amend the National School Lunch Act and for other purposes; to the Committee on Education and Labor.

H.R. 13735. A bill to amend section 4a, the commodity distribution program of the Agriculture and Consumer Protection Act of 1973; to the Committee on Agriculture.

By Mr. ROE (for himself, Mr. BROWN of California, Mr. CONYERS, Mr. MURPHY of New York, and Mr. RIEGLE):

H.R. 13736. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

By Mr. STEIGER of Wisconsin (for himself, Mr. QUIE, Mr. BELL, Mr. ESCH, Mr. HANSEN of Idaho, and Mr. FORSYTHE):

H.R. 13737. A bill to amend the Juvenile Delinquency Prevention Act to establish a new program of research and demonstrations, with particular emphasis on problems of runaway children, and for other purposes; to the Committee on Education and Labor.

By Mr. STOKES:

H.R. 13738. A bill to amend title XVI of the Social Security Act to provide for emergency Federal assistance grants to aged, blind or disabled individuals whose supplemental security income checks (or the proceeds thereof) are lost, stolen, or undelivered; to the Committee on Ways and Means.

By Mr. TIERNAN:

H.R. 13739. A bill to amend the Clayton Act to encourage competition in the oil industry by prohibiting an oil company which is engaged in the production and refining of petroleum products from engaging in the marketing of such products; to the Committee on the Judiciary.

By Mr. TREEN (for himself, Mr. ARMSTRONG, Mr. LOTT, and Mr. SYMMS):

H.R. 13740. A bill to provide a tax revenue source for States and local entities by the elimination of the taxes imposed under the Internal Revenue Code of 1954 on cigars, cigarettes, cigarette papers, and tubes; to the Committee on Ways and Means.

By Mr. VAN DEERLIN:

H.R. 13741. A bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions

as under present law or to claim a credit against tax of $200 for each such exemption; to the Committee on Ways and Means.

By Mr. VANIK:

H.R. 13742. A bill to provide that, after January 1, 1974, Memorial Day be observed on May 30 of each year and Veterans' Day be observed on the 11th of November of each year; to the Committee on Judiciary.

H.R. 13743. A bill to eliminate the duty on imports from free world countries of wheat and milled wheat products; to the Committee on Ways and Means.

By Mr. WYMAN (for himself, Mr. MILLER, Mr. WHITEHURST, Ms. BURKE of California, Mrs. HECKLER of Massachusetts, Mr. JOHNSON of California, Mr. TOWELL of Nevada):

H.R. 13744. A bill to amend title II of the Social Security Act to increase the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder, and to revise the method for determining such amount; to the Committee on Ways and Means.

By Mr. YATRON (for himself and Mr. LAGOMARSINO):

H.R. 13745. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. ZWACH:

H.R. 13746. A bill to amend section 4940 of the Internal Revenue Code of 1954 to change the name of the amount imposed thereby on certain investment income from excise tax to service charge, and to reduce such amount from 4 percent to 1½ percent; to the Committee on Ways and Means.

By Mr. BOWEN (for himself, Mr. MONTGOMERY, Mr. WHITTEN, Mr. COCHRAN, Mr. LOTT, Mr. JONES of Tennessee, Mr. STUBBLEFIELD, Mr. SISK, Mr. RARICK, Mr. ALEXANDER, Mr. BERGLAND, Mr. BROWN of California, Mr. FLOWERS, Mr. MATHIS of of Georgia, Mr. BAKER, Mr. BEVILL, Mr. JONES of North Carolina, Mr. ROSE, Mr. GINN, Mr. FULTON, Mr. LANDRUM, Mr. BRINKLEY, Mr. LITTON, Mr. WAMPLER, and Mr. GUNTER):

H.R. 13747. A bill to provide indemnity payments to poultry and egg producers and processors; to the Committee on Agriculture.

By Mr. BURTON:

H.R. 13748. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself and Mr. CONABLE):

H.R. 13749. A bill to amend the Internal Revenue Code of 1954 to repeal the capital gain throwback rules applicable to trusts; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 13750. A bill to promote public health and welfare by expanding and improving the family planning services and population sciences research activities of the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON (for himself, Mr. REID, Mr. CONTE, and Mr. NICHOLS):

H.R. 13751. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mrs. HECKLER of Massachusetts:

H.R. 13752. A bill to amnd title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 13753. A bill to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. KOCH (for himself, Mr. BINGHAM, Mr. BOLAND, Mrs. BURKE of California, Mr. GAYDOS, Mr. MAZZOLI, Mr. MCKINNEY, Mr. MITCHELL of Maryland, Mr. MOORHEAD of Pennsylvania, Mr. PIKE, Mr. STOKES, Mr. STUCKEY, Mr. ULLMAN, and Mr. CHARLES WILSON of Texas):

H.R. 13754. A bill to amend chapter 49 of title 10, United States Code, to prohibit the inclusion of certain information on discharge certificates, and for other purposes; to the Committee on Armed Services.

By Mr. PEYSER (for himself, Mr. BADILLO, Mr. ADDABBO, Mr. VAN DEERLIN, Mr. MCDADE, Mr. MURTHA, Mr. WON PAT, Mr. HORTON, Mr. MYERS, Mr. MOAKLEY, Mr. LENT, Mr. CHARLES H. WILSON of California, Mr. SEIBERLING, Mr. ROE, Mr. HARRINGTON, Mr. SARBANES, Mr. STARK, Mr. EDWARDS of California, Mr. FORD, Mr. CONYERS, Mr. ROSENTHAL, Mr. MITCHELL of Maryland, Mr. GILMAN, Ms. BURKE of California, and Mr. RIEGLE):

H.R. 13755. A bill to authorize a national summer youth sports program; to the Committee on Education and Labor.

By Mr. PEYSER (for himself, Mr. MURPHY of Illinois, Mr. STOKES, Mr. MATSUNAGA, Mr. ESCH, Ms. HOLTZMAN, Mr. MCKINNEY, Ms. ABZUG, Mr. MAZZOLI, Mr. WHITEHURST, and Mr. DIGGS):

H.R. 13756. A bill to authorize a national summer youth sports program; to the Committee on Education and Labor.

By Mr. DINGELL:

H.J. Res. 951. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans' Day; to the Committee on the Judiciary.

By Mr. GROSS (for himself, Mr. DEVINE, Mr. CARNEY of Ohio, Mr. WYLIE, and Mr. DENT):

H.J. Res. 952. Joint resolution requiring the President to submit to Congress a report concerning importations of minerals which are critical to the needs of U.S. industry; to the Committee on Ways and Means.

By Mr. HECHLER of West Virginia:

H.J. Res. 953. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. ERLENBORN (for himself and Mr. WYDLER):

H. Res. 1007. Resolution to authorize an investigation by the Committee on Standards of Official Conduct to learn who is responsible for the unauthorized release of the report "Expenditures of Federal Funds in Support of Presidential Properties" and to impose penalties against such person or persons; to the Committee on Standards of Official Conduct.

By Mr. MILFORD:

H. Res. 1008. Resolution advocating the use of export controls by the United States, especially with respect to natural resources and agricultural commodities, in order to increase employment opportunities for American workers; to the Committee on Banking and Currency.

By Mr. PRITCHARD (for himself, Mr. YOUNG of Alaska, and Mr. MARTIN of North Carolina):

H. Res. 1011. Resolution to expedite the impeachment inquiry by the House Judiciary Committee; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN:

H.R. 13757. A bill for the relief of Lt. Col. Horace Hill, U.S. Air Force Reserve (retired); to the Committee on the Judiciary.

H.R. 13758. A bill for the relief of Elmer A. Houser, Jr.; to the Committee on the Judiciary.

H.R. 13759. A bill for the relief of Donald E. Reed; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

413. By the SPEAKER: Petition of the Fourth Mariana Islands District Legislature, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, relative to reimbursement of the legislature for funds expended by it in the presentation to the Micronesian War Claims Commission of the claims of the people of the Mariana Islands; to the Committee on Foreign Affairs.

414. Also, petition of the Republican City Committee of Worcester, Mass., relative to cooperation between the President and the House Committee on the Judiciary; to the Committee on the Judiciary.

415. Also, petition of the Democratic Precinct Caucus, Orcas Island, Wash., relative to impeachment proceedings; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THE PUBLIC'S RIGHT TO KNOW

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1974

Mr. ERLENBORN. Mr. Speaker, an informed electorate is indeed essential in a democratic society, as a Washington Post editorial last week stated in endorsing the freedom of information amendments passed March 14 by this body.

I submit the editorial so that the readers of these pages may have a concise explanation of the import of this bill (H.R. 12471), and may know of the leadership our colleague—Mr. MOORHEAD of Pennsylvania—has taken in enhancing the public's right to know.

The editorial follows:

THE RIGHT TO KNOW

Government secrecy has become an unfortunate fact of life in American society, despite the best hopes of this nation's founders. James Madison once declared optimistically: "Knowledge will forever govern ignorance, and a people who mean