HOUSE OF REPRESENTATIVES—*Tuesday, April 7, 1970*

The House met at 12 o'clock noon.

Rev. Charles Walker, the First Baptist Church, Jasper, Ga., offered the following prayer:

Our Father, we pause at the beginning of this day of work to acknowledge that Thou art our Creator and that we are Thy creation.

Accept our thanksgiving for the gifts of life and love and liberty. We are grateful for the exciting time in which we serve our Nation.

Help us to remember our vows we made to Thee and our pledges given to the people we represent. Give us wisdom and understanding that we may be honest with ourselves, with our people, and with Thee.

Grant that we may have the courage to stand for the right and the strength to overcome the temptation to waver.

Lift our eyes above today and above ourselves, that we may see tomorrow—that we may see the men who will be governed by our decisions.

In Jesus name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

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

On March 31, 1970:

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

On April 1, 1970:

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes.

On April 3, 1970:

H.R. 3786. An act to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California; and

H.R. 4148. An act to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 2306) entitled "An act to provide for the establishment of an international quarantine station and to permit the entry therein of animals from any country and the subsequent movement of such animals into other parts of the United States for purposes of improving livestock breeds, and for other purposes," with an amendment in which the concurrence of the House is requested.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works; which was read and referred to the Committee on Appropriations:

MARCH 24, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House,
The Capitol,
Washington, D.C.

MY DEAR MR. SPEAKER: Pursant to the provisions of the Public Buildings Act of 1959, the Committee on Public Works of the House of Representatives on March 24, 1970, approved the following public building projects:

Alabama, Birmingham—Post Office, Courthouse (Alteration).

California, San Francisco—Federal Office Building, 49 4th St. (Alteration).

Florida, Orlando—Courthouse and Federal Office Building (Construction) and Post Office and Courthouse (Conversion).

Illinois, Chicago—Federal Correctional Center and Federal Parking Facility (Construction).

Illinois, Chicago—Post Office Annex (Alteration).

Kansas, Topeka—Property Management and Disposal Service Depot (Alteration).

Maine, Portland—Courthouse (Alteration).

Michigan, Detroit—Federal Building, Courthouse (Alteration).

Mississippi, Aberdeen—Post Office, Courthouse (Construction).

Missouri, St. Louis—Mart Building (Alteration).

North Carolina, Asheville—Post Office, Courthouse (Alteration).

North Carolina, Raleigh—Post Office, Courthouse (Alteration).

Ohio, Cincinnati—Post Office, Courthouse (Alteration).

Oregon, Portland—Courthouse (Alteration)

Pennsylvania, Philadelphia—Federal Building, 225 So. 18th St. (Alteration).

Pennsylvania, Philadelphia—Federal Building, 1421 Cherry St. (Alteration).

Pennsylvania, Philadelphia—Custom House and Appraisers Stores (Revision) (Alteration).

Virginia, Quantico—FBI Academy (Revision) (Construction).

Virginia, Richmond—Parcel Post Annex (Alteration).

Virginia, Richmond—Post Office, Courthouse (Alteration).

Washington, Auburn—General Services Administration Center (Alteration).

Washington, D.C.—Archives Building (Alteration).

Washington, D.C.—General Accounting Office (Alteration).

Washington, D.C.—Health, Education and Welfare North Building (Alteration).

Total—24 Projects.

Sincerely yours,

GEORGE H. FALLON,
Chairman.

TRIBUTE TO REV. CHARLES WALKER

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

Mr. LANDRUM. Mr. Speaker, it has been my very great pleasure today to have the honor of having in the House of Representatives as the Chaplain for the day the Reverend Charles Walker, minister of the First Baptist Church of Jasper, Ga., where Mrs. Landrum and our family have membership.

Mr. Walker has been very active in our community affairs over a long period of years. He is doing a great work in the service of our Lord.

I know his heart will be moved and he will be inspired to even greater activities by his association with this distinguished body, and I thank the Members for receiving him so cordially today.

APPOINTMENT OF CONFEREES ON S. 952, OMNIBUS JUDGESHIP BILL

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 952) to provide for the appointment of additional District judges, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. CELLER, RODINO, ROGERS of Colorado, MCCULLOCH, and POFF.

ANNUAL REPORT OF CIVIL SERVICE COMMISSION FOR 1969—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-238)

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service and ordered to be printed:

To the Congress of the United States:

I have the honor to transmit herewith the Civil Service Commission annual report for Fiscal Year 1969. This report, which is made pursuant to 5 U.S.C. 1308, discusses the achievements of the Commission which have been designed to improve and upgrade Federal personnel management. I believe that these efforts have made a significant contribution toward enhancing the effectiveness and efficiency of the Federal Government.

RICHARD NIXON.

THE WHITE HOUSE, *April 7, 1970.*

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

COMPOSITION OF FIRST DIVISION—NATIONAL RAILROAD ADJUSTMENT BOARD

The Clerk called the bill (H.R. 15349) to amend the Railway Labor Act in order to change the number of carrier representatives and labor organization rep-

resentatives on the National Railroad Adjustment Board, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 15349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 3, First, of the Railway Labor Act is amended by striking out "thirty-six members, eighteen of whom shall be selected by the carriers and eighteen" and inserting in lieu thereof "thirty-four members, seventeen of whom shall be selected by the carriers and seventeen."

SEC. 2. Subsection (b) of said section 3, First, is amended by inserting the word "voting" ahead of the words "representative on any division of the Board.".

SEC. 3. Subsection (c) of said section 3, First, is amended by adding the following at the start thereof: "Except as provided in the second paragraph of subsection (h) of this section," and inserting the word "voting" ahead of the words "representative on any division of the Board.".

SEC. 4. The second sentence of subsection (h) of said section 3, First, is amended by amending the last sentence thereof to read as follows: "This division shall consist of eight members, four of whom shall be selected and designated by the carriers and four of whom shall be selected and designated by the labor organizations, national in scope and organized in accordance with section 2 hereof and which represent employees in engine, train, yard, or hostling service: *Provided, however,* That each labor organization shall select and designate two members on the First Division and that no labor organization shall have more than one vote in any proceedings of the First Division or in the adoption of any award with respect to any dispute submitted to the First Division: *Provided further, however,* That the carrier members of the First Division shall cast no more than two votes in any proceedings of the division or in the adoption of any award with respect to any dispute submitted to the First Division."

SEC. 5. Subsection (k) of said section 3, First, is amended by inserting the words "except as provided in paragraph (h) of this section," after the words *"Provided, however,* That."

SEC. 6. Subsection (n) of said section 3, First, is amended by inserting the words "eligible to vote" after the words "Adjustment Board."

With the following committee amendment:

On page 2, line 8, strike out "sentence" and insert in lieu thereof "paragraph".

The committee amendment was agreed to.

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

PROVIDING FINANCIAL ASSISTANCE FOR ICE AGE NATIONAL SCIENTIFIC RESERVE

The Clerk called the bill (H.R. 4172) to authorize the Secretary of the Interior to provide additional financial assistance for development and operation costs of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes.

Mr. PELLY. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

CONCERNING APPROVAL BY ATTORNEY GENERAL OF TITLE TO LANDS

The Clerk called the bill (H.R. 15374) to amend section 355 of the Revised Statutes, as amended, concerning approval by the Attorney General of the title to lands acquired for or on behalf of the United States, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 15374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first seven paragraphs of section 355 of the Revised Statutes, as amended (40 U.S.C. 255; 33 U.S.C. 733; and 50 U.S.C. 175) are hereby repealed, and in lieu thereof there are substituted the following paragraphs:

"Unless the Attorney General gives prior written approval of the sufficiency of the title to land for the purpose for which the property is being acquired by the United States, public money may not be expended for the purchase of the land or any interest therein.

"The Attorney General may delegate his responsibility under this section to other departments and agencies, subject to his general supervision and in accordance with regulations promulgated by him.

"Any Federal department or agency which has been delegated the responsibility to approve land titles under this section may request the Attorney General to render his opinion as to the validity of the title to any real property or interest therein, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

"Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of title or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency."

SEC. 2. The third full paragraph on page 941 of volume 25 of the Statutes at Large, in the Act of March 2, 1889, as amended (40 U.S.C. 256), is repealed.

SEC. 3. Section 8 of the Act of March 1, 1911 (36 Stat. 962 (16 U.S.C. 517)) is amended by adding after "Attorney General" the words "or his designee".

SEC. 4. Section 5 of the Act of February 26, 1931 (46 Stat. 1422 (40 U.S.C. 258e)) is amended by deleting the words ", notwithstanding the provisions of section 355 of the Revised Statutes of the United States".

SEC. 5. Sections 4776 and 9776 of title 10, United States Code, are each amended by deleting the sentence: "In such a case, section 175 of title 50 does not apply."

SEC. 6. Section 6 of the Act of February 18, 1929 (45 Stat. 1223, as amended (16 U.S.C. 715e)) is further amended by adding the words, "or his designee" after "Attorney General".

With the following committee amendment:

Page 2, following line 19, insert the following:

"The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority."

The committee amendment was agreed to.

Mr. DONOHUE. Mr. Speaker, the bill H.R. 15374 would substitute revised language for the first seven paragraphs to section 355 of the Revised Statutes having to do with approval of land titles by the Attorney General. Under its provisions the Attorney General will be responsible for the approval of the sufficiency of titles to land acquired by the United States and he may delegate this authority to other departments and agencies. When he has delegated the authority to a department or agency, the authority is to be exercised in accordance with regulations promulgated by the Attorney General and is to be under his general supervision. The bill preserves an existing exception in the law permitting the Tennessee Valley Authority to settle land titles as to land acquired by it.

The bill, H.R. 15374, is a revised bill which embodies recommendations of the committee which resulted from hearings and studies by its Subcommittee No. 2 on legislation originally introduced in accordance with the recommendations of an executive communication from the Department of Justice. The earlier bill, H.R. 14119, would have granted the heads of all departments and agencies the authority to approve the sufficiency of titles to land acquired by that department or agency. The committee concluded that the Attorney General as the chief law officer of the United States should be charged with the primary responsibility for the approval of land titles. While it is clear from the executive communication and the testimony produced at the hearings on both bills that this authority can be properly exercised by other departments and agencies in many instances, the committee felt that there should be a determination of whether an individual department or agency in fact had the capability of exercising this authority or, has an actual need for such authority in terms of its operation. Accordingly, instead of making the grant of this authority by legislative determination, it was felt that the Attorney General would be in a better position to determine whether a delegation of the authority should be made. It was also felt that the Department of Justice would be in a better position to supervise the exercise of the authority if it was clear that the primary responsibility was lodged in the Attorney General.

After the introduction of the bill H.R. 15374 embodying the subcommittee's recommendations, a hearing was held on the bill on February 4, 1970. Representatives of the Department of Justice appeared at the hearing and stated that the Department had no objection to changes recommended by the committee and as embodied in the bill.

Section 355 of the Revised Statutes, which would be amended by this bill, is set out in three places in the United States Code—40 U.S.C. 255; 33 U.S.C. 733; and 50 U.S.C. 175—and prohibits the expenditure of funds upon land purchased by the United States for a construction site until the Attorney General

has approved the title to that land. As has been noted this bill would continue to place the responsibility for the approval of land titles in the Attorney General and would further authorize the Attorney General to delegate this title approval responsibility to other departments and agencies subject to his general supervision and in accordance with regulations promulgated by him.

The basic provisions of section 355 were enacted in 1841—5 Stat. 469—and have remained in effect since that time. At the time of its original enactment and for a considerable time afterward, title work was a highly specialized legal function. Title opinions were based on abstracts prepared by the examining attorney. These abstracts not only involved a search of the title records but often required many extraneous investigations. The need for searches outside the records subsequently became limited due to the fact that in the first half of the 20th century, the various States improved their title recording requirements and facilities. In the same period, title companies began preparing and certifying abstracts for examining attorneys. More recently and particularly in the past 20 years, certificates of title and title insurance policies have largely displaced abstracts and eliminated much of the need for record searches. In its communication, the Justice Department observed that these developments have gradually changed much title practice so that it now has many of the aspects of administration rather than legal decisionmaking.

This bill provides for a realistic adjustment of Government procedures to meet modern conditions. The Departmen in the communication to the Congress noted that this improvement in the law will also result in certain economies to the Government. The proposal recognizes the fact that the assembly of title papers, curative work, closings and related title functions are already performed by the agencies. The considered use of the authority to delegate the functions of the Attorney General will have the effect of avoiding duplication which now exists as to some aspects of title processing by the Government. It is recommended that the bill, with the committee amendment, be considered favorably.

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

GOLD AND SILVER ARTICLES—CONSUMER PROTECTION

The Clerk called the bill (H.R. 8673) to protect consumers by providing a civil remedy for misrepresentation of the quality of articles composed in whole or in part of gold or silver, and for other purposes.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

BARBARA ROGERSON MARMOR

The Clerk called the bill (S. 533) for the relief of Barbara Rogerson Marmor.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

FRANZ CHARLES FELDMEIER

The Clerk called the bill (S. 614) for the relief of Franz Charles Feldmeier.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without projudice.

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

There was no objection.

CORA S. VILLARUEL

The Clerk called the bill (S. 1775) for the relief of Cora S. Villaruel.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

MICHEL M. GOUTMANN

The Clerk called the bill (S. 1934) for the relief of Michel M. Goutmann.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

WU HIP

The Clerk called the bill (S. 1963) for the relief of Wu Hip.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

TO CONFER U.S. CITIZENSHIP POSTHUMOUSLY UPON L. CPL. ANDRE L. KNOPPERT

The Clerk called the bill (S. 2363) to confer U.S. citizenhip posthumously upon L. Cpl. Andre L. Knoppert.

There being no objection, the Clerk read the bill as follows:

S. 2363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Lance Corporal Andre L. Knoppert, a native of the Netherlands, who served honorably in the United States Marine Corps from December 28, 1967, until his death on May 8, 1969, shall be held and considered to have been a citizen of the United States at the time of his death.

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

JOSE LUIS CALLEJA-PEREZ

The Clerk called the bill (H.R. 1747) for the relief of Jose Luis Calleja-Perez.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

GLORIA JARA HAASE

The Clerk called the bill (H.R. 12959) for the relief of Gloria Jara Haase.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

KIMBALL BROS. LUMBER CO.

The Clerk called the bill (H.R. 13740) for the relief of Kimball Bros. Lumber Co.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

DR. ANTHONY S. MASTRIAN

The Clerk called the bill (H.R. 15760) for the relief of Dr. Anthony S. Mastrian.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

DOCUMENTATION OF THE VESSEL "WEST WIND" WITH FULL COASTWISE PRIVILEGES

The Clerk called the bill (S. 1177) to authorize the documenation of the vessel *West Wind* as a vessel of the United States with coastwise privileges.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT PROCUREMENT, SELECT COMMITTEE ON SMALL BUSINESS, TO SIT DURING GENERAL DEBATE TODAY

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Procurement of the Select Committee on Small Business may be permitted to sit today during general debate.

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

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. COLMER. 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 Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on H.R. 1124.

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

There was no objection.

JURISDICTION OF U.S. COURTS—NONAPPROPRIATED FUND ACTIVITY

Mr. ROGERS of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (S. 980) to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes, as amended.

The Clerk read as follows:

S. 980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1346(a)(2) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.".

(b) The first full paragraph of section 1491 of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.".

(c) Section 1302 of the Supplemental Appropriation Act, 1957 (70 Stat. 694; 31 U.S.C. 724(a)), is amended by adding immediately before the period at the end thereof the following new proviso: *"Provided further,* That any judgment or compromise settlement against the United States arising out of an express or implied contract entered into by the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration, shall be paid in accordance with this section and sections 2414, 2517, and 2518 of title 28, United States Code, and such instrumentality shall reimburse the United States for a judgment or compromise settlement paid by the United States."

SEC. 2. (a) In addition to granting jurisdiction over suits brought after the date of enactment of this Act, the provisions of this Act shall also apply to claims and civil actions dismissed before or pending on the date of enactment of this Act if the claim or civil action is based upon a transaction, omission, or breach that occurred not more than six years prior to the date of enactment of this Act.

(b) The provisions of subsection (a) of this section shall apply notwithstanding a determination or judgment made prior to the date of enactment of this Act that the United States district courts or the United States Court of Claims did not have jurisdiction to entertain a suit on an express or implied contract with a nonappropriated fund instrumentality of the United States described in section 1 of this Act.

The SPEAKER. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 64]

Adams	Evans, Colo.	Moorhead
Ashley	Feighan	Morton
Ayres	Fulton, Pa.	Murphy, N.Y.
Baring	Gallagher	O'Hara
Beall, Md.	Goldwater	Ottinger
Blackburn	Gray	Philbin
Bolling	Green, Oreg.	Pollock
Brown, Calif.	Hagan	Powell
Broyhill, N.C.	Halpern	Reuss
Cabell	Hanna	Roe
Carey	Harsha	Rostenkowski
Casey	Hastings	St Germain
Chappell	Hébert	St. Onge
Clark	Horton	Scheuer
Clausen, Don H.	Johnson, Pa.	Schneebeli
Clawson, Del	Kastenmeier	Taft
Clay	Kirwan	Teague, Calif.
Conable	Lennon	Tunney
Daddario	Lowenstein	Vander Jagt
Dawson	Lujan	Waldie
Dent	Lukens	Whalley
Dickinson	McCarthy	White
Diggs	Miller, Calif.	Wiggins
	Mollohan	Wilson, Bob

The SPEAKER. On this rollcall 359 Members have answered to their names, a quorum.

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

JURISDICTION OF U.S. COURTS—NONAPPROPRIATED FUND ACTIVITY

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HALL. Mr. Speaker, having been on my feet at the time the bill was asked to be considered under suspension of the rules, and the quorum call having intervened, may I inquire of the Speaker if the gentleman who demanded the second was awarded the same and if he is opposed to the bill.

The SPEAKER. The Chair will state that the gentleman from New York demanded a second and the Chair put the unanimous-consent request, "without objection, a second will be considered as ordered," and the Chair did hesitate and pause before stating that a second would be considered as ordered. Under the circumstances, the Chair feels that the gentleman from New York demanded a second in proper order.

Mr. HALL. And a second has been ordered?

The SPEAKER. Exactly.

Mr. HALL. I thank the Chair.

The SPEAKER. The gentleman from Colorado (Mr. ROGERS) is recognized.

Mr. ROGERS of Colorado. Mr. Speaker, I urge the House to give favorable consideration to S. 980, as amended by the Committee on the Judiciary.

The enactment of this measure will remove a number of inequities that have arisen as the result of a loophole in the Tucker Act.

Under the Tucker Act, the United States has waived its sovereign immunity with respect to contract claims. However, the construction given to the Tucker Act by the courts has left a loophole, which creates inequities for some claimants. This loophole exists with respect to contracts entered into by those Federal instrumentalities which operate as nonappropriated fund activities. In short, under present construction of the Tucker Act, a plaintiff with a legitimate claim against a nonappropriated fund activity is not entitled to any judicial relief. S. 980 as reported by the Committee on the Judiciary is intended to close this loophole with respect to contracts entered into by post exchange types of operations conducted within the Department of Defense and the National Aeronautics and Space Administration.

In urging favorable consideration of this measure, let me emphasize that the bill as reported by the House Judiciary Committee differs significantly from the Senate version. Under the bill as passed by the Senate, the United States would waive its sovereign immunity with respect to contracts of all nonappropriated fund activities. Under the Senate version, any judgments against the United States would be paid by the Comptroller General and the nonappropriated fund activity would be required to reimburse the United States. However, the United States would be reimbursed only to the extent that reimbursement would not jeopardize the operation of the nonappropriated fund activity. As a result,

under the Senate version, the taxpayers would be called upon to bear the financial burden in some cases.

Under the bill as reported by the House Judiciary Committee, there would be no cost to the taxpayers. Since our version of the bill applies only to post exchange types of operations—all of which have sufficient assets to pay their own way—we would not be drawing on tax funds.

Mr. Speaker, I believe that the amendments added to the Senate version by the House Judiciary Committee should eliminate any basic controversy concerning this measure. In the form that the bill was reported by us, it will remove a basic inequity. At the same time, it will create no additional tax burdens. Under these circumstances, I once again urge that it be given the approval of this House.

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

Mr. ROGERS of Colorado. I yield to the gentleman from South Carolina.

Mr. RIVERS. I just want to be sure that this would not give away the jurisdiction that the military has by reason of the cession of State land for its activities, because any time a military installation is in operation, the land is ceded to the Government and the Government has exclusive jurisdiction.

Now, in this case does it give the sovereignty in which the military installation is located the authority and the right to serve State papers on nonappropriated fund activities, purely based upon a contract?

Mr. ROGERS of Colorado. All this does is to give jurisdiction to the Federal court to entertain suits based on contracts against these exchanges.

Mr. RIVERS. Mr. Speaker, if the gentleman will yield further, the jurisdiction is exclusively in the Federal courts?

Mr. ROGERS of Colorado. Well, under present law you cannot sue these exchanges in either State or Federal courts. All this bill does is give jurisdiction——

Mr. RIVERS. To go into the Federal courts?

Mr. ROGERS of Colorado. To go into the Federal courts; that is correct.

Mr. RIVERS. Do you provide for punitive damages?

Mr. ROGERS of Colorado. Whatever may be authorized under the contract in the particular case would be used. All this does is give jurisdiction. Heretofore you could not even sue for any contract claim.

Mr. RIVERS. Mr. Speaker, based upon the explanation of the gentleman from Colorado, I can see no objection to the bill.

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

Mr. ROGERS of Colorado. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's statement and I want him to know that I read thoroughly the report of your committee. However, I would like to be assured by the gentleman and by the committee that if we go to conference on the amendments by the House Committee on the Judiciary which in its wisdom saw fit to apply, and which sets them forth so clearly in the second, third, fourth and fifth paragraphs on page 3 of the report, that is, the differences between the Senate-passed version and what you believe to be right; that we will stick to our guns in conference and insist upon the House version and amendments, because in my opinion they are most important.

They certainly are well taken, in the opinion of a nonlawyer, but as one who knows the commissaries and post exchanges of the military services. Can the gentleman give us such assurance?

Mr. ROGERS of Colorado. May I say to the gentleman from Missouri that I personally was never in favor of opening the floodgates, so to speak, to make the U.S. Government responsible for every officer's club and every other nonappropriated fund activity that would be covered by the Senate's version of the bill. In trying to resolve the problem, we spelled out, as the amendments will show, that we only intend the bill to apply to the Army and Air Force exchange services, Navy exchanges, the Marine Corps exchanges, the Coast Guard exchanges, and the exchange councils of the National Aeronautics and Space Administration. It was our view that all of that group are solvent and that such action should only be instituted against that group and no other. As far as I am personally concerned I will stick by that if we have to go to conference. However, I am hopeful that the Senate will accept our amendments and not make a conference necessary.

Mr. HALL. I appreciate the pledge given by the gentleman, Mr. Speaker, and I would like to ask the gentleman further wherein there is justice and equity in singling out only those that are able to pay their own way? Insofar as principle is involved it seems applicable only to those who have managed properly and have built up their company fund, or their central exchange fund, so to speak, would be relieved of sovereign immunity, whereas others who have been less well managed should be protected.

Mr. ROGERS of Colorado. May I say to the gentleman first of all that it is extremely difficult to find out where all these activities are that are covered by the broad Senate bill. We limited the coverage of the bill so that if any judgment was taken it would be taken against a solvent activity and would not cost the taxpayers anything. As I indicated we cannot afford to open up liability unless the money is to be paid by the people who are engaged in the business.

Mr. HALL. This brings up the very basic question of why open it up and remove sovereign immunity in the first place, if we are going to do it in a fractional manner.

Mr. ROGERS of Colorado. The reason for it is that we do not think that the exchanges which do the major portion of all this business should be immune from suit. They should at least be required to come into court and be responsible like any other function or business concern with respect to the contracts that they enter into.

Mr. HALL. Mr. Speaker, if the gentleman will yield for a final pair of questions, I would say, No. 1, will this be passed on to the military, and their dependents as the consumers from the post exchanges, commissaries, and so forth; and, second, by removing this sovereign immunity and allowing it to go to court, will the various States of the Union be allowed to impose taxes on such post exchanges and commissaries?

Mr. ROGERS of Colorado. First of all, I do not believe it will be passed on to any of the members of the military and their dependents. Second, the question of taxation by the local governments is not involved in this particular bill, nor does the fact that the exchanges are subject to suit make them subject to State taxation.

Mr. HALL. Can the gentleman say categorically that there will be no taxes by the various States of the Union against the Federal posts, camps or stations, and their post exchanges, commissaries, and so forth, as the result of this bill?

Mr. ROGERS of Colorado. Let me assure the gentleman that this bill does not change that situation in any manner whatsoever.

Mr. HALL. Mr. Speaker, I thank the gentleman for yielding.

Mr. FISH. Mr. Speaker, I rise in support of S. 980. This bill, as amended by the Judiciary Committee, should command widespread, if not unanimous support because, first, it helps correct a gross inequity in the law, second, there is no known opposition to the bill, and, third, it will not cost the taxpayers a single penny.

S. 980 deals with the concept of sovereign immunity. This longstanding rule of law derives from the old and hoary principle that the king, or sovereign, was not subject to the very laws he promulgated for his subjects. Specifically, the doctrine of sovereign immunity holds that a sovereign government may not be sued, whether in tort or in contract, by any of its citizens.

While a doctrine which holds that the government is above the law would seem out of place in the American democracy, the demise of this rule has come relatively recently in the history of the United States. Under the Federal Tort Claims Act of 1946, the United States was made liable for the torts of its agents and employees to the same extent a private person would be liable in like circumstances. This act has been judicially construed to cover nonappropriated fund activities as well as activities conducted with appropriated funds.

The Tucker Act, enacted in 1887, removes the protection of sovereign immunity from the United States for suits in contract. Although nonappropriated fund activities have been held to be instrumentalities of the United States and thus protected by sovereign immunity from suits in contract, the courts have held that they do not come within the ambit of the Tucker Act since the contract obligations are not paid out of appropriated funds.

S. 980, as it passed the other body, would close this loophole in the Tucker Act by permitting the aggrieved party to sue the U.S. Government where the gravamen of the complain[t] arises from a

contract with a nonappropriated fund activity. Such activity would then have to reimburse the United States for any judgment paid.

To date three sets of hearings have been held on S. 980 and its predecessor in the 90th Congress, S. 3163. Of the numerous witnesses who appeared, all were unanimous in their support of this legislation. The witnesses included representatives of the American Bar Association, the Department of Defense, the judiciary, the law school faculties, and the practicing bar.

There is one change of substance which our committee made in S. 980 as enacted by the other body. We made S. 980 applicable only to the post exchanges of the military services and NASA, rather than to all nonappropriated fund activities. Since we know that these particular post exchange activities have very substantial assets capable of providing full reimbursement for any judgments paid by the United States, we can be assured that the program, if limited to them, will operate on a pay-as-you-go basis without cost to the taxpayers.

The committee amendment limits applicability of the waiver of sovereign immunity in contract claims to post exchanges. This is appropriate because we can be assured that these activities are capable of reimbursement to the United States.

In the version passed by the other body, the Congress is placed in the position of possibly appropriating funds to pay off liability incurred by activities for whose operations no Federal funds were appropriated.

In short, Mr. Speaker, the Judiciary Committee feels that an aggrieved party should have a right of action against the Government for damages arising out of contract disputes with post exchanges. This right, we are assured, can be granted without placing any additional burden on the taxpayer.

I, therefore, urge the passage of S. 980 as it is now before the House.

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

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

Mr. GROSS. I would like, if the gentleman would bear with me, to read two short sentences from the report that gives me concern. The sentences read:

> Nonappropriated fund activities are at present an anomaly of the law. When States have attempted to tax or regulate their activities these activities have successfully argued that they are immune from taxation and regulation as instrumentalities of the United States.

My question is, does this change the status of their present, or what appears to be, exemption from the law as to the payment of taxes to States and local subdivisions of the States?

Mr. FISH. This is a question that was put by the gentleman from Missouri to the chairman of the subcommittee during the course of this debate in which the response was that this bill would not change their tax status in any way. What we are accomplishing by this measure is giving jurisdiction to the Federal courts over suits in contract brought against these particular instrumentalities. As we understand it, S.980 would not extend State taxation jurisdiction over these same instrumentalities.

Mr. GROSS. So the gentleman makes the categorical reply that this bill does not change the status of the present law in that respect?

Mr. FISH. That is my understanding.

Mr. GROSS. Will the gentleman further comment on the fact that all agency reports contained in this report are apparently adverse to the bill? Perhaps their opposition has been corrected or taken care of by way of amendment, but the fact remains that the report shows that all the agencies, or practically everyone that has commented, has been opposed to the bill.

Mr. FISH. In response to the question of the gentleman from Iowa, I would say that, although some of these agency reports suggested certain amendments to the bill, all of them supported the purpose and the principal thrust of the proposed legislation. As the gentleman suggests some of the amendments were adopted by the committee.

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

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

Mr. PIRNIE. In support of the comment made by the gentleman from Iowa, it seems as though that sentence was put into the report for a purpose, and the explanation that we have received here is adequate. I do not believe there is an intention to create any tax liability on these agencies.

Mr. FISH. That is perfectly correct. The gentleman is absolutely right. This bill waives sovereign immunity of post exchanges in contract suits only. It is not intended to confer jurisdiction to States for tax purposes.

Mr. PIRNIE. Why is tax liability referred to in the report?

Mr. ROGERS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. The one reason there is reference to it in the report is only to show that they are Federal instrumentalities. The gentleman from Iowa read that portion of the report. We used that language to show they are Federal instrumentalities, and as we pointed out in the previous paragraphs, they are not subject to suit. That is the reason.

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

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

Mr. GROSS. It is said they are instrumentalities of the Federal Government, without referring to the tax situation as it presently exists. That is what concerns some of us.

Mr. ROGERS of Colorado. May I again assure the gentleman from Iowa and other Members that the passage of this bill will not in any manner do anything other than confer jurisdiction upon a Federal court to decide a dispute that may exist between a litigant or a contractor with the exchange services. That is all it does.

Mr. ROGERS of Colorado. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. ALBERT). The question is on the motion of the gentleman from Colorado that the House suspend the rules and pass the bill S. 980, as amended.

The question was taken and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DONATION OF DAIRY PRODUCTS

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2595), to amend the Agricultural Act of 1949 with regard to the use of dairy products, and for other purposes.

The Clerk read as follows:

S. 2595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), is amended by adding at the end thereof the following:

"Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition."

The SPEAKER pro tempore. Is a second demanded?

Mrs. MAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry. In this bill the same as H.R. 12588? I find no number listed.

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

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

Mr. FOLEY. S. 2595 is identical with the bill H.R. 12588 except for one phrase in the Senate version of the bill: The application of the donated program is limited to the United States.

Mr. GROSS. I thank the gentleman.

The SPEAKER pro tempore. The gentleman from Washington, (Mr. FOLEY) will be recognized for 20 minutes, and the gentlewoman from Washington (Mrs. MAY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, this bill would amend the priorities for disposition of dairy products under section 416 of the Agricultural Act of 1949 by permitting the disposition of dairy products acquired under CCC support programs to nonprofit school lunch and other nonprofit child-feeding programs, in the assistance of needy persons, and for charitable institutions, including hos-

pitals, to the extent that needy persons are served, before it would be necessary for the CCC to attempt to dispose of these acquired stocks by sale.

No increase in Government expenditure is anticipated, and the bill will possibly preclude the necessity for the Government having to acquire dairy products at open market prices to complete donation programs. The House bill was heard by the Subcommittee on Domestic Marketing and Consumer Relations without opposition.

We have asked for the suspension of the rules to consider the Senate version of this bill which, as I just explained to the gentleman from Iowa, differs from the House version in one respect only, that is donations are authorized in the Senate bill now under consideration only within the United States and no authority would be given to the CCC to make any such priority donations abroad.

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

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Washington (Mrs. MAY).

Mrs. MAY. Mr. Speaker, I rise in support of this bill and also join the gentleman from Washington in explaining that we would like to suspend the rules and substitute the Senate version of the bill because we think the added words are definitely needed.

In explaining this bill to my colleagues, I would like to quote from the Under Secretary of the Department of Agriculture, Mr. J. Phil Campbell, in his letter to the Senate and to the House committees in support of the measure. Secretary Campbell explained that under the Agricultural Act of 1949, in section 416, there is a provision which provides for a priority of sales over donations in the disposition of food commodities that are acquired under our support programs. This section authorizes donations of such food commodities for nonprofit school lunch programs or to needy persons and other similar uses in order to prevent the waste of the commodities "before they can be disposed of in normal domestic channels without impairment of the price support program or sold abroad at competitive world prices."

Dairy products, as we all know, have played an extremely important role in school lunch programs, in donations of food to needy persons, and other food assistance programs.

Usually supplies of our dairy products acquired under the dairy price support programs have been adequate for both sales and these food assistance uses. However, occasionally our CCC inventories of dairy products have for a certain period of time declined to such low levels that their use in some of these food assistance programs, where we have pledged to supply these dairy products, has had to be temporarily interrupted or completely curtailed, which certainly brings about an undesirable effect for the agency or the group that is expecting the dairy products for use in a feeding program that is ongoing.

So the enactment of S. 2595 would help to assure continuing supplies of our much-needed dairy products in our food assistance programs at less cost to the Government than would be the case if CCC inventories were completely exhausted through sales and other authorities were used—that authority is present—to buy supplies in the market at higher prices for program uses.

Under Secretary Campbell has indicated in his letter to the Senate and House Committees on Agriculture that because this is a continuing authority the Bureau of the Budget has advised there is no objection to the bill and that it should not result in higher costs.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentlewoman from Washington yield?

Mrs. MAY. I am glad to yield to the gentleman from Wisconsin for whatever time he may desire.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate very much the gentlewoman's yielding to me.

I wish to commend the committee for bringing to the floor today this piece of legislation. It may not be one which attracts a great deal of attention, but it has tremendous importance so far as the dairy industry is concerned.

This one particular piece of legislation enables the use of dairy products in nonprofit child care feeding programs and hospitals and the like, and was a part of the comprehensive dairy act I introduced, along with a number of my colleagues, not long ago.

The action on the floor today in passing this bill will enable this program to operate effectively at less cost to the Government and without interruption.

I appreciate very much the leadership of the distinguished gentleman from Washington (Mr. FOLEY) and the distinguished gentlewoman from Washington (Mrs. MAY).

Mr. NELSEN. Mr. Speaker, today we are pleased to be considering an amendment to the Agricultural Act of 1949 which will not only help to guarantee an adequate supply of dairy products for the needy, but will also contribute to a healthy dairy industry and to governmental economy. This measure, H.R. 12588, is entitled to broad support.

As outlined in House Report 91-587, which accompanies the bill, section 416 of the 1949 act provides that food commodities obtained through price support operations, which cannot be disposed of in normal domestic channels without impairment of the price support program, or sold abroad at competitive world prices, may be donated by the Commodity Credit Corporation to the school lunch program and needy groups in the United States and abroad. The donations thus made possible have been most helpful in fighting hunger and malnutrition.

Occasionally, however, these general stipulations have meant that dairy product inventories have been depleted, resulting in the curtailment or temporary interruption of dairy food assistance programs. There is need to remedy this situation through this legislation to assure uninterrupted dairy product feeding programs.

According to the Under Secretary of Agriculture, Mr. J. Phil Campbell:

> Enactment of H.R. 12588 would help to assure continuous supplies of dairy products in the food assistance programs at less cost to the Government than would be the case if CCC's inventories were completely exhausted through sales and then other authority were used to buy supplies in the market at higher prices for program uses.

In other words, it would be cheaper to enact this legislation than to sustain Government purchases of dairy products on he open market to meet donation needs. Also, of course, our House Agriculture Committee does no anticipate any material increase in Government costs as a result of this legislation.

Mr. ZWACH. Mr. Speaker, I strongly endorse S. 2595 which would amend the Agricultural Act of 1949 with regard to the use of dairy products.

Passage of this legislation would give priority to the use of dairy products in nonprofit school lunch and similiar feeding programs. It would merely enable the use of dairy products acquired under the Commodity Credit Corporation support programs in ongoing feeding programs.

Dairy products have traditionally played a leading role in the school lunch, school breakfast, and other food assistance programs. These products have been used extensively by the Department of Agriculture in its efforts to eliminate hunger and malnutrition among the Nation's poor. While CCC inventories have normally been adequate for both sales and use in these programs, inventories have from time to time been depleted. In such instances the use of dairy products in some feeding programs has been curtailed or temporarily interrupted. Enactment of S. 2595 would assure an uninterrupted flow of dairy products for ongoing feeding programs.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Washington that the House suspend the rules and pass the bill S. 2595.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 12588) was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD on the bill just passed.

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

There was no objection.

STATEMENT BY THE PRESIDENT ON VETERANS' MEDICAL CARE

Mr. HALL. Mr. Speaker, I ask unanimous consent that the President's statement on veterans' medical care, delivered to the House on Friday last, may be printed in the RECORD at this point.

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

There was no objection.

The statement is as follows:

STATEMENT BY THE PRESIDENT ON VETERANS MEDICAL CARE, APRIL 2, 1970

For a number of years, the Veterans Administration hospital system has been experiencing increasing difficulties in providing a full range of services for the care of sick and disabled veterans. As a result of past decisions, the ability of the VA hospital system to meet future needs has been seriously impaired.

Action must be taken now to insure that eligible veterans will receive the medical care they require.

When I appointed Donald E. Johnson to be Administrator of Veterans Affairs last June, I directed him to make a thorough review of the veterans medical care program: to identify the problems, analyze the causes, take such immediate corrective steps as appropriate, and recommend a total medical care program appropriate for future needs. He has completed that review, and today he reported his findings.

I am pleased that the Administrator and his new management team have taken a number of immediate administrative steps to improve the quality of the veterans medical care program. However, his review shows that additional funds are required immediately if the VA is to meet its obligations to veterans requiring medical attention. *Therefore, I have approved an increase of $50 million in the VA's medical care budget request for fiscal year 1971—which makes it $210 million more than the approved appropriation for fiscal year 1970—and have authorized the VA to seek from Congress an additional appropriation of $15 million for the remainder of this fiscal year.* These requests will enable the VA to improve medical care for all eligible veterans, particularly for those suffering from battle injuries.

This Administration is committed to providing quality medical care for every eligible veteran.

BACKGROUND OF THE PROBLEM

A 1968 law required the Veterans Administration to reduce its staff to the mid-1966 level. This deprived the VA's medical care program of several thousand workers in all categories of the health services professions at a time when the VA requirements for such personnel were growing steadily.

Last September, to meet this problem, I raised VA's personnel ceiling by 1,500, even though employment authorizations for other Federal agencies were then being reduced by 51,000. I also approved the VA's fiscal 1971 appropriations request for an additional 2,100 medical care employees.

Even more health services personnel will be required in the immediate future to meet the special problems presented by an increasing number of Vietnam Era dischargees and the increasing scope and complexity of health care delivery systems.

THE VIETNAM ERA VETERAN

Men and women with service in the Armed Forces since the onset of the Vietnam conflict are being discharged in steadily increasing numbers. The annual rate of separations grew gradually from 531,000 in calendar 1965 to 958,000 in 1969. In 1970 and 1971, the annual rate will climb well above one million.

Many of those now leaving the Service suffer from wounds received in combat and are discharged directly into VA hospitals. Currently 7% of the patients in VA hospitals and 9% of VA out-patient treatment cases are Vietnam Era veterans. These percentages are expected to rise during the next few years. Also, all Vietnam Era veterans are entitled to VA dental care in the year following separation from service. Due to the increasing discharge rate, the demands for such treatment have led to an abnormally high backlog. Additional funds are required to correct this situation.

Better battlefield care and faster evacuation of the war wounded have resulted in a high incidence of patients with multiple amputations and spinal cord injuries in VA hospitals. Special hospital centers, with more staff than usual, are required for the care and rehabilitation of these patients.

These new developments combine to impose greater than normal demands upon the professional staffs of VA hospitals and clinics and require both more personnel and an increased range of specialized skills.

SPECIALIZED MEDICAL PROGRAMS

As medical knowledge expands, the techniques for saving lives becomes more complex, more specialized, and more expensive. For several years, the VA has identified for separate funding and control a group of 23 "Specialized Medical Programs," including Coronary/Intensive Care Units, Hemodialysis Centers, Organ Replacement Centers, and Pulmonary Emphysema Units. These innovations in VA hospitals and clinics pioneer the latest advances in diagnosis and treatment.

The VA's efforts to make these programs available throughout its hospital system have been constrained by lack of funds. For example, there is presently an insufficient number of Coronary/Intensive Care Units in the VA hospital system. Such units reduce mortality in heart attack cases by 15 to 30 percent; every eligible veteran should have access to these life-saving facilities.

Administrator Johnson also has found that the VA has not had the funds to open and operate a sufficient number of Prosthetics Treatment Centers and Spinal Cord Injury Centers for severely wounded veterans from Vietnam.

These Specialized Medical Programs are not only important to the veterans who benefit directly from them, they are also important to America because the veterans medical care program consistently has been a leader in the development of innovations of great importance to our total health delivery system.

Concern for the nation's older veterans is an integral part of the VA's specialized medical care mission. These patients will require greater number of chronic care and nursing care beds as the veteran population continues to age.

OTHER PROBLEMS

Administrator Johnson has identified a number of other problems affecting the veterans medical care program. Most of these have been brought on by a combination of inflationary pressures and budgetary restrictions. These include a reduction in supporting services available in VA hospitals as compared to many non-governmental hospitals; deferrals in the purchase of replacement equipment; stretch outs of maintenance and rehabilitation projects; and curtailment of the construction program to modernize or replace outdated VA hospitals.

The VA's potential as a clinical training resource has been neglected. Fuller reliance on the VA's system of 166 hospitals for medical education purposes would not only improve the VA's position as a consumer of health services personnel—but would also help the entire nation meet its requirements in the health manpower area.

THE STEPS WE ARE TAKING

Solution of many problems related to the veterans medical care program will take time—even if we had all the necessary funds immediately.

We must, however, find early solutions to the more pressing problems which directly involve patient care. These include—

The need for increased staffs to serve existing Specialized Medical Programs, especially those concerned with care of wounded Vietnam veterans;

The need to open and adequately staff and equip more centers under these programs;

The need to bring the backlog of Vietnam veteran dental care cases within normal operating levels; and

The need to provide additional nursing care beds for older veterans.

The $15 million supplemental appropriation which I have authorized would be expended in April, May and June to clear up the excessive backlog in Vietnam veterans dental claims; improve the staffing of existing Specialized Medical Programs, especially the Spinal Cord Injury Centers and the Coronary/Intensive Care Units; carry out plans for taking hemodialysis units into the homes of veterans suffering from serious kidney ailments; and help meet increased costs of needed drugs and medicines.

The VA's budget request already submitted to Congress for the fiscal year to commence in July would provide extra staff to activate 121 additional bed units for Specialized Medical Programs and to open an additional 1,155 nursing care beds, a 28% increase in this program.

The new request for $50 million would be used to increase the staffs of VA hospitals and clinics; to improve further the staffing of the Spinal Cord Injury Centers and other important Specialized Medical Programs; to purchase seriously needed operating equipment; and to absorb rising drug and medical costs.

OTHER STEPS TO IMPROVE MEDICAL CARE

Beyond these requirements for additional funds, a number of steps have been taken to improve the veterans medical care program.

New Management Team—An entirely new top management team for the VA's Department of Medicine and Surgery, headed by Dr. Marc J. Musser has been appointed. This group has the talent, the initiative, and the outlook to develop and carry out needed improvements in veterans medical care.

Improved Management Controls—Streamlined management controls over the widespread operations of the VA, including its system of 166 hospitals have been established. By merging the fiscal audit, internal audit and investigation services, more frequent audits and faster investigations into complaints will be possible.

Improved Management of Hospitals—The management at each VA hospital is being evaluated, and a number of replacements in hospital directors, assistant directors, and chiefs of staff have already been made. Other personnel changes will be made as the need is demonstrated. A new program to upgrade the managerial skills of those in charge of the hospitals will make possible greater decentralization of appropriate authority to hospital directors. An executive recruitment and development program to provide for future hospital leaders will be undertaken and a program for simplification of paperwork procedures and other hospital administrative practices is underway.

Study of Future Needs—A comprehensive study of the future needs of the veterans medical care is continuing to insure that developing problems will be identified early and analyzed as to their significance to the program.

Closing Health Manpower Gap—The VA, in coordination with other interested agencies, will explore new approaches to the problem of closing the gap in the nation's critical health manpower situation. This will include studies to improve techniques of training health services personnel, improvements in

health delivery systems, increased sharing of expensive and short-supply medical equipment by hosiptals in the same community, and the potential for the establishment of new medical schools in conjunction with VA hospitals.

COMMITMENTS TO FULFILL

To those who have been injured in the service of the United States, we owe a special obligation. I am determined that no American serviceman returning with injuries from Vietnam will fail to receive the immediate and total medical care he requires. This commitment will require more than dollars to redeem; it will require sound management of existing VA facilities, wise use of existing personnel and equipment, and—most importantly—sensitivity to the needs of our veterans, personal as well as medical. Administrator Johnson and his staff have a keen appreciation of these requirements. We, as a people, have commitments to our veterans, and we shall fulfill them.

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HALL. Mr. Speaker, I am most pleased with the President's message on veterans' medical care.

This was particularly applicable to our veterans of Vietnam.

It is well that President Nixon recognizes their service and the debt our Nation owes all of those who have served so honorably. It is appropriate that a grateful nation again bestows these benefits. In other wars our wounded came home to sounds of bands playing, confident that a grateful Nation would do whatever was needed.

It isn't quite that way in this dirty, undeclared war, no-win war, where some Americans, so called, have made service to country a thing to be ashamed of and veterans a group to be sneered at. Gradualism is the order of the day, devoid of will to win, and predicated on fear.

Many of our Vietnam veterans, the President points out, now leave the service still suffering from combat wounds and are discharged directly into VA hospitals. I trust the great military hospitals still "care for their own" to the maximum effect of hospital benefits.

As a result demands on VA hospitals and staffs are increasing constantly.

The President's recognition of this situation and his willingness to meet the situation head on, is ample proof that this administration will not let our veterans down. We can all be grateful for that.

Mr. SAYLOR. Mr. Speaker, both President Nixon and Donald E Johnson, the Administrator of Veterans' Affairs, are to be commended for coming to grips with the problems of our Nation's 166 VA hospitals.

Mr. Johnson and his staff have pinpointed VA's needs and made recommendations to fulfill them.

The President has taken steps to provide that important ingredient required to help transform plans into realization—money.

The $50 million additionl funds he has approved for VA's operations in the next fiscal year will make available to the VA in fiscal year 1971 about $210 million more than it had in fiscal year 1970.

The extra $50 million will be used to increase staffs in VA hospitals and clinics, for staffing spinal cord injury centers and other specialized medical programs, and to meet drug and medical costs.

The $15 million supplemental appropriation the President seeks will be spent in April, May, and June of this fiscal year and comes at a propitious time.

These funds will reduce the backlog of veterans needing dental treatment, help make hemodialysis units available in homes of veterans suffering from serious kidney ailments, and help meet crucial costs in other areas.

We here are all dedicated to the same aim—to see that those who have served this land of ours know that we are grateful.

The President's announcements are evidence of that gratitude.

CALL OF THE HOUSE

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

The SPEAKER pro tempore. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 65]

Ashley	Goldwater	Pettis
Ayres	Green, Oreg.	Philbin
Baring	Griffiths	Pollock
Beall, Md.	Hagan	Powell
Blackburn	Halpern	Price, Tex.
Bolling	Hanna	Rees
Brooks	Hansen, Wash.	Reifel
Brown, Calif.	Harsha	Roberts
Broyhill, N.C.	Hastings	Rodino
Cabell	Hébert	Roe
Casey	Horton	Rostenkowski
Chappell	Johnson, Pa.	Scheuer
Clark	Kirwan	Schneebeli
Clawson, Del	Kuykendall	Shipley
Clay	Landgrebe	Stafford
Conable	Lennon	Symington
Daddario	Long, La.	Taft
Dawson	Lujan	Teague, Calif.
Dent	Lukens	Teague, Tex.
Dickinson	McCarthy	Thompson, N.J.
Diggs	McMillan	Tunney
Dingell	Miller, Calif.	Vander Jagt
Eckhardt	Mollohan	Waldie
Evans, Colo.	Moorhead	Whalley
Feighan	Morton	White
Fraser	Murphy, N.Y.	Wiggins
Fulton, Pa.	O'Hara	Wilson, Bob
Gallagher	Pepper	

The SPEAKER pro tempore. On this rollcall 347 Members have answered to their names, a quorum.

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

CONFERENCE REPORT ON H.R. 514, ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of March 24, 1970.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky is recognized for 1 hour.

Mr. PERKINS. Mr. Speaker, the conference report which we bring before this Chamber today is on the bill, H.R. 514, which passed the House on April 23, 1969. The Senate did not take action on the bill until February of this year.

I want to state that the members of the Committee on Education and Labor of the House have been diligent on all occasions in moving the extension of the programs embraced by H.R. 514. We commenced hearings on this bill on January 15, 1969. It was our purpose in the Committee on Education and Labor, as the gentleman from Minnesota (Mr. QUIE) and I and others agreed in 1968 after the 1968 elections, that this would be the first order of business in 1969. That was the reason why we began early hearings on January 15, 1969.

Since the programs covered by H.R. 514 were due to expire on June 30, 1970, in order to obtain forward funding this year we desired the passage of H.R. 514 last year.

It is my hope that we will never have another occasion where an education bill of such great importance will be delayed almost to the point of its expiration and that we will always have timely appropriations.

I certainly want to compliment the distinguished chairman of the Committee on Appropriations (Mr. MAHON) for having a bill ready to bring to the House floor this coming week.

I certainly would have had great regrets if we had failed to get this conference report adopted before the House Committee on Appropriations had taken action on the education appropriation measure this year since I feel that the Education and Labor Committee was really diligent in its efforts to bring this measure out and get this conference report back early last year. Be that as it may, we have worked out a conference report with the cooperation of the minority and an outstanding number of the conferees on the majority side who worked day and night to bring this important measure to the floor of the House. I wish to compliment all of the majority members for the great contribution that they made in finding a solution to the differences between the House and the Senate and likewise compliment the minority conferees.The gentleman from Minnesota, AL QUIE, worked day and night to help find a solution and to bring about a meeting of the minds between the majority and the minority, and we did have sharp differences. I want to pay special tribute to the distin-

guished gentleman from North Carolina (Mr. RUTH) for the courageous fight that he put up for the Stennis amendment.

As I stated, in my judgment, this is one of the most important conference reports that has ever been brought before this Chamber. This is about a $24.5 billion authorization in this bill for the next 3 years for the various titles of the Elementary and Secondary Education Act and about 75 percent of the funds are authorized for title I of that act. In my judgment this conference report will make a significant beginning in remedying more than one and a half centuries of unequal access to quality education.

The final version of this legislation, which we bring to the floor today, I wholeheartedly support although as in the case of most comprehensive legislation in the field of education it represents a compromise of differing points of view with respect to the best approach to take.

The conference bill contains many of the features worked out by the House both in committee and on the floor.

It will be recalled that the principal issues before the House last April when this bill was considered were first the length of the authorization. The committee had reported a 5-year bill.

In the final version that passed the House a 2-year extension was authorized.

The Senate-passed version of the bill provided for a 4-year extension.

The conference substitute provides for 3 years.

Second, the committee and the House last April debated the consolidation into one program, title II of the Elementary and Secondary Education Act of 1965, dealing with library books and textbooks and title III of the Elementary and Secondary Education Act dealing with supplemental educational centers and services with title III dealing with equipment and title V (A) dealing with guidance and counseling of the National Defense Education Act of 1958.

On this feature of the House-passed bill the conference report represents a compromise. H.R. 514 as reported by the conference consolidates into title III of the Elementary and Secondary Education Act the provisions of title V (A) of the National Defense Education Act.

This is a suitable combination of Federal education programs.

Guidance and counseling support is now authorized in title III of the Elementary and Secondary Education Act.

The merger of the two to this extent eliminates the separate authorizations which may have been considered by some as unnecessary duplications.

For those who have championed the concept of consolidation it makes a logical step forward in this direction.

It provides State educational agencies which now administer title III programs with greater flexibility in the use of funds appropriated for title III and for guidance and counseling activities.

Mr. Speaker, aside from technical differences the conferees were confronted with approximately 92 basic conference differences to reconcile between the version of H.R. 514 and the version which passed the Senate.

Mr. Speaker, on a number of occasions the conferees of the House receded to the Senate on Senate additions to H.R. 514 which might suggest to the casual observer that the House conferees were taking new Senate authorizations in conference which the House had no opportunity to thoroughly examine in committee and to debate.

However, it must be remembered that the Senate had added into H.R. 514 several authorizations which had previously passed the House of Representatives in separate bills.

In this regard, H.R. 514 contains authorizations similar to H.R. 13304, the Gifted and Talented Children Educational Assistance Act; H.R. 13310, the Children With Specific Learning Disabilities Act of 1969; and H.R. 13630, the Vocational Education Amendments of 1969.

Mr. Speaker, at this point I believe my colleagues can have a clearer picture of conference action if I enumerate the program authorizations contained in H.R. 514 and therefore I include in the RECORD at this point a table reflecting conference action on authorizations by program:

H.R. 514—AUTHORIZATIONS

ESEA	Existing fiscal year 1970 authorization	Fiscal year 1970 appropriations	Conference agreement fiscal year 1971 authorization	Fiscal year 1971 original appropriations request	Conference agreement fiscal year 1972 authorization	Conference agreement fiscal year 1973 authorization
I. Education of disadvantaged children:						
Part A—basic grants:						
(1) Maximum authorization using $3,000 in fiscal year 1970, 1971 and 1972, and $4,000 in fiscal year 1973	$3,620,500,000	$1,396,975,000	$3,620,500,000	$1,300,000,000	$3,906,300,000	$5,564,000,000
(2) Utilizing $2,000 in all years			(2,442,404,241)		(2,638,340,356)	(2,875,799,988)
(3) Utilizing $3,000 in all years			(3,620,500,000)		(3,906,300,000)	(4,257,898,303)
Part B—Special incentive grants (estimate)	50,000,000	0	123,200,000	0	123,200,000	223,200,000
Part C—Urban and rural grants (estimate)			453,900,000	0	496,700,000	862,300,000
II. Books and library materials	200,000,000	50,000,000	200,000,000	0	210,000,000	220,000,000
III. Supplementary centers and services	550,000,000	116,393,000	550,000,000	116,393,000	575,000,000	605,000,000
Guidance, counseling and testing (NDEA title V)	30,000,000	17,000,000		0		
V. Strengthening State and local educational agencies:						
Part A—State departments	80,000,000	29,750,000	80,000,000	29,750,000	85,000,000	90,000,000
Part B—Local educational agencies			20,000,000	0	30,000,000	40,000,000
Part C—Planning and evaluation			10,000,000	0	15,000,000	20,000,000
VI. Education of the handicapped totals [1]	320,000,000	100,000,000	365,500,000	95,000,000	430,000,000	486,000,000
Part B—State grants	200,000,000		200,000,000		210,000,000	220,000,000
Part C—Centers and services	29,000,000		36,500,000		51,500,000	66,500,000
Part D—Personnel training	59,000,000	100,000,000	69,500,000	95,000,000	87,000,000	103,500,000
Part E—Research	19,500,000		27,000,000		35,500,000	45,000,000
Part F—Instructional media	12,500,000		12,500,000		15,000,000	20,000,000
Part G—Learning disabilities	(4)		20,000,000		31,000,000	31,000,000
VII. Bilingual Education	40,000,000	25,000,000	80,000,000	10,000,000	100,000,000	135,000,000
VIII. Dropouts	30,000,000	5,000,000	30,000,000	15,000,000	31,500,000	33,000,000
Nutrition and health	(2)	0	10,000,000	0	16,000,000	26,000,000
Adult education	80,000,000	50,000,000	200,000,000	55,000,000	225,000,000	225,000,000
Public Law 874	725,000,000	505,400,000	727,200,000	425,000,000	814,200,000	911,200,000
Puplic Housing	(3)		286,900,000	0	286,900,000	286,900,000
Public Law 815	80,000,000	15,167,000	80,000,000	19,949,000	80,000,000	80,000,000
Public Housing	(3)		107,400,000	0	107,400,000	107,400,000
Vocational Education Act Amendments total [4]	135,000,000	25,880,000	160,000,000	0	185,000,000	
Programs for disadvantaged	40,000,000	20,000,000	50,000,000	0	50,000,000	
State Residential schools	15,000,000	0	15,000,000	0	15,000,000	
Work-study	35,000,000	5,000,000	45,000,000	0	55,000,000	
Curriculum development	10,000,000	880,000	10,000,000	0	10,000,000	
Part F of EPDA (Teacher training)	35,000,000	(4)	40,000,000	(4)	45,000,000	
Teacher Corps			[5]44,000,000			
Total (utilizing maximum authorizations for Title I ESEA)	5,848,500,000	2,336,565,000	7,148,600,000	2,066,092,000	7,717,200,000	9,915,000,000

[1] The Conference Committee has agreed to the Senate Authorization of $12,000,000.
[2] The Conference Committee has agreed to the Senate Authorization of $,2000,000 for fiscal year 1970.
[3] The Conference Report does not contain the provisions of the House bill authorizing the inclusion of children in public housing in the impact aid programs to be effective in fiscal 1970. The cost of the inclusion of children in public housing is projected at the fiscal year 1971 level, since data necessary for computation of additional increases are unavailable.
[4] Not earmarked.
[5] Presently, $56,000,000 is authorized in fiscal year 1971 for the Teacher Corps. The Senate amendment which the Conference Committee has agreed to increases the authorization by $44,000,000 to $100,000,000.

[Millions of dollars]

Elementary and Secondary Education Act	1971 authorizations			1972 authorizations			1973 authorizations		
	House	Senate	Conference report	House	Senate	Conference report	House	Senate	Conference report
Title I:									
Part A—Basic grants estimates ($3,000 factor fiscal year 1971 and 1972; $4,000 fiscal year 1973)	$3,620.5	$3,620.5	$3,620.5	$3,906.3	$3,906.3	$3,906.3	----------	$5,564.0	$5,564.0
Part B—Special incentive grants (estimates) [1]	50.0	123.2	123.2	50.0	123.2	123.2	----------	223.2	223.2
Part C—Urban and rural grants (estimates) [1]	----------	453.9	453.9	----------	496.7	496.7	----------	862.3	862.3
Title II: Books and library materials	200.0	200.0	200.0	200.0	210.0	210.0	----------	220.0	220.0
Title III:									
Supplementary centers and services	550.0	550.0	----------	550.0	575.0	----------	----------	605.0	----------
Consolidation [2]	1,000.0	----------	550.0	1,000.0	----------	575.0	----------	----------	605.0
Title V:									
Grants to strengthen State Departments of Education	80.0	80.0	80.0	80.0	85.0	85.0	----------	90.0	90.0
Part B—Grants to local Education agencies	----------	20.0	20.0	----------	30.0	30.0	----------	40.0	40.0
Part C—Planning and evaluation	----------	10.0	10.0	----------	15.0	15.0	----------	20.0	20.0
Title VI: Education of the handicapped total [3]	326.0	365.5	365.5	320.5	430.0	430.0	38	486.0	486.0
Title VII: Bilingual education	40.0	80.0	80.0	40.0	100.0	100.0	----------	135.0	135.0
Title VIII:									
Dropouts	30.0	30.0	30.0	30.0	31.5	31.5	----------	33.0	33.0
Nutritional health [4]	----------	10.0	10.0	----------	16.0	16.0	----------	26.0	26.0
Adult education	80.0	200.0	200.0	80.0	225.0	225.0	----------	225.0	225.0
Public Law 874	725.0	727.2	727.2	812.0	814.2	814.2	----------	911.2	911.2
Public Housing [5]	286.9	286.9	286.9	286.9	286.9	286.9	----------	286.9	286.9
Public Law 815	80.0	80.0	80.0	80.0	80.0	80.0	----------	80.0	80.0
Public Housing [5]	107.4	107.4	107.4	107.4	107.4	107.4	----------	107.4	107.4
Vocational Education Act amendments total: [6]	135.0	160.0	160.0	135.0	185.0	185.0	----------	----------	----------
Teacher Corps [7]	----------	44.0	44.0	----------	----------	----------	----------	----------	----------
Totals	7,310.8	7,148.6	7,148.6	7,678.1	7,717.7	7,717.7	38	9,915.0	9,915.0

[1] The Senate Amendment authorized revisions in pt. B and a new program in pt. C effective in fiscal year 1970. The conference agreement retains the Senate amendment; thus for fiscal year 1970 an estimated $73,200,000 is authorized for pt. B, whereas $50,000,000 is presently authorized and an estimated $356.9 for fiscal year 1970 is authorized for the new programs in pt. C.

[2] In the House bill the consolidation includes titles II and III of ESEA and titles III–A and V-A of NDEA. In the conference report the consolidation includes only title III of ESEA and title V-A of NDEA.

[3] Title VI—Education of the Handicapped:

[Millions of dollars]

	1971 authorizations			1972 authorizations			1973 authorizations		
	House	Senate	Conference report	House	Senate	Conference report	House	Senate	Conference report
Part B—State grants	$200.0	$200.0	$200.0	$200.0	$210.0	$210.0	----------	$220.0	$220.0
Part C—Centers and services [a]	[b] 29.0	36.5	36.5	17.0	51.5	51.5	----------	66.5	66.5
Part D—Personnel training [c]	59.0	69.5	69.5	57.0	87.0	87.0	----------	103.5	103.5
Part E—Research [d]	19.5	27.0	27.0	19.5	35.5	35.5	----------	45.0	45.0
Part F—Instructional media [e]	[f] 12.5	12.5	12.5	[f] 15.0	15.0	15.0	[f] 20.0	20.0	20.0
Part G—Learning disabilities	[g] (6.0)	20.0	20.0	[g] (12.0)	31.0	31.0	[g] (18.0)	31.0	31.0

[a] In the House bill authorizations in this category were provided by amendment to pt. B, title VI (regional resource centers) and pt. C, title VI (centers and services for deaf-blind youth).

[b] This figure includes $12,000,000 presently authorized for fisca. year 1971 in Public Law 90–538.

[c] In the House bill authorizations in this category were provided by amendment to Public Law 85–926 (grants for teaching in education of the handicapped children), Public Law 88–164, sec. 501 (training of physical educators and recreation personnel) and pt. D, title VI, dissemination.

[d] In the House bill authorizations in this category are provided by amendment to Public Law 88–964, sec. 301 (research and demonstration projects in education of handicapped children), and sec. 502, research and demonstration in physical education, and recreation for mentally retarded and other handicapped children.

[e] Public Law 85–905 which is repealed by the conference report authorized identical sums for instructional media.

[f] As authorized by Public Law 85–905, as amended.

[g] Amounts proposed to be authorized by H.R. 13310 which passed the House Oct. 6, 1969.

[4] The Senate amendment includes an authorization of $2,000,000 for fiscal year 70, the conference report retains this provision.

[5] The conference report does not contain the provisions of the House bill authorizing the inclusion of children in public housing in the impact aid programs to be effective in fiscal 1970. The cost of the inclusion of children in public housing is projected at the fiscal year 1971 level, since data necessary for computation of additional increases are unavailable.

[6] Vocational Education Act:

[In millions of dollars]

	1971 authorizations			1972 authorizations			1973 authorizations		
	House	Senate	Conference report	House	Senate	Conference report	House	Senate	Conference report
Programs for disadvantaged	(40)	50	50	(40)	60	60	----------	----------	----------
State residential schools	(15)	15	15	(15)	15	15	----------	----------	----------
Work-study	(35)	45	45	(35)	55	55	----------	----------	----------
Curriculum development	(10)	10	10	(10)	10	10	----------	----------	----------
Part F, EPDA (teacher training)	[a](35)	40	40	[a](35)	45	45	----------	----------	----------

[a] Authorizations for vocational education programs shown in the House column were contained in H.R. 13630 which passed the House on Dec. 16, 1969.

[7] Presently, $56,000,000 is authorized in fiscal year 1971 for the Teacher Corps. The Senate amendment which the conference committee has agreed to increases the authorization by $44,000,000 to $100,000,000.

I know some people feel concern that some of the funds have not been expended most effectively. I share those concerns. I want to see every dollar wisely expended to assure a high-quality education for all. The beauty about this legislation is that it reaches the children of the central cities and the rural areas, preschool children and dropouts, children of families who without special help would be denied full educational opportunities. Without these programs, by reason of geography or economic conditions many persons would be a drain on our society, in many instances for their entire lifetimes.

Mr. Speaker, I have watched this important piece of legislation work in the rural areas, loading up preschool children in buses in the morning and taking them to centers. It has worked out wonderfully well. This legislation has done more than any other piece of legislation ever enacted by this Congress to slow down the dropout rate in our elementary and secondary schools. All you have to do is to look at the four volumes of evidence gathered by our committee in hearings last year on H.R. 514. I know there have been some Members who would like to brush aside the most comprehensive hearings that the committee ever conducted on this legislation. But the facts are here; let me insert at this point a recent survey of achievements in the States under title I:

SURVEY OF ACHIEVEMENTS IN STATES UNDER TITLE I

A. West Virginia State Department of Education.—Remedial reading is a high priority need of educationally deprived children and W. Va. schools. Objective test results in fis-

cal year 1969 show gains in reading achievement of target pupils ranging from .8 of a year to 2.5 years for an average gain of approximately 1.3 years.

B. Missouri State Department of Education.—St. Louis City: In grades 6–8, in eleven schools with 2,626 Title I students, the mean gain based on achievement tests was 1.4 years. These same children had in years before averaged about eight months gain.

C. Louisiana State Department of Education.—During the 1968–69 school year a total of 101,957 children were involved in title I, ESEA reading programs in Louisiana at a total cost of $3,993,081. During this 9 month period there has been an average grade level improvement of 1.3 in 56 of Louisiana's 66 school systems participating in Title I reading programs.

D. Connecticut State Department of Education.—Standardized reading test results for 5,219 children who received title one program services showed a reading rate of gain per year of 1.1 years based on national normative data.

E. California State Department of Education.—In the past year in the California ESEA title I program, 27,500 students, or 14 percent, made 1½ or more years' gain in remedial reading programs; 97,000, or 50 percent, made gains of 1 to 1½ years; 51,500, or 27 percent, made gains of 7 months to 10 months per 10-month school year; 18,210, or 9 percent, could not be classified as to specific rate of gain. Prior to ESEA title I, the average rate of gain for these students was 6 months per 10-month school year.

F. Arkansas State Department of Education.—

(1) In the Hughs School District, 200 children, working daily in two reading labs using two special teachers and two teacher aides, showed gains in reading from 1 to more than two years in 9 months.

(2) In Pulaski County School District, the average gain last year for title I students who received special help in reading was 2½ grade levels in 9 months.

(3) In the Tyronza School District, children are showing reading gains of from 1 to 3.7 grades in 9 months, as a result of special reading laboratories financed under title I.

G. Ohio State Department of Education.—In the Title I reading programs conducted during school year 1968–69, in which 121,369 children were served, 63 percent achieved more than 1.0 grade level improvement, and 34 percent achieved more than 1.5 grade level improvement.

Mr. Speaker, for many years I have advocated, personally, longer authorizations. This 1-year authorizing time does not make good commonsense. We must let the local school agencies know in advance the amount of money that they will receive and let them know and have confidence that there is an authorization. To my way of thinking the conferees have done a wonderful job. It is my hope that the conference report will be adopted unanimously.

Mr. COLMER. Mr. Speaker, once again, in the pending conference report on the Elementary and Secondary Education Amendments of 1969, the Congress is asked to place the stamp of its approval on an unfair and hypocritical policy of applying educational guidelines differently in different sections of the country.

Once again this House is being asked to approve the arbitrary withholding of Federal tax moneys to force compliance with bureaucratic edicts on how particular local schools are to be run.

Once again the House is being asked to endorse the busing of children, in some States but not in others, to achieve racial balance, although that practice is contrary to the expressed sense of Congress.

Once again the House is being asked to kill the neighborhood school in some States but not in others.

Earlier this year the Senate passed the so-called Stennis amendment to this bill. It enunciated a policy that guidelines established pursuant to title VI of the Civil Rights Act of 1964 shall be applied uniformly in all regions of the United States in dealing with segregation without regard to the origin or cause of such segregation.

Senator RIBICOFF, a former Secretary of the Department of Health, Education, and Welfare, had the courage and the sense of fairness and justice to concede that the policy of enforcing desegregation only in the South was hypocritical. He supported the Stennis amendment, and it was in the bill passed by Senate.

But the conferees have added language to the amendment that makes it meaningless, just as the conferees on the Department of Health, Education, and Welfare appropriation bill did to a similar House-passed amendment earlier this year.

If this provision of the conference report prevails, the unequal, unfair, and, in some ways, absurd application of title VI of the Civil Rights Act of 1964 will continue. Segregation in Atlanta or New Orleans or Charlotte or any other southern city will continue to be de jure segregation and subject to that act, while segregation in Detroit or Chicago or Cleveland or any other northern city will be called de facto segregation and not subject to the act. Neighborhood schools may continue to flourish in the North, but in the South the Washington bureaucracy, supported by the courts, has decreed their destruction.

Mr. Speaker, this action of the conferees on the education bill is not entirely surprising, although, I must confess, it is par for the course in this matter of enforced integration in all legislative and court procedure. It will be recalled, in this connection, that the House changed the bill reported out by the House Judiciary Committee in extending the punitive voting rights bill aimed at my great section of this country and provided that the act apply to all States of the Union and not just seven Southern States. This was in line with President Nixon's recommendation. But, the Senate also emasculated that House-passed bill and revived the old 1965 act, I repeat, aimed and applicable only to the seven Southern States, with one meaningless amendment. That bill will shortly come up on a conference report.

If history repeats itself, the House will reverse itself and adopt the Senate version. And again, the hypocrisy that prevailed in the other body on both the elementary education and the voting rights bill will follow. Mr. Speaker, I feel keenly hurt by this unfair practice on the part of the Congress. I was very much interested in this voting rights bill, as well as the elementary education bill. If I may be pardoned for a personal reference, I devoted many hours both in the Rules Committee and on the floor of the House toward having the President's version of the voting rights bill, rather than the punitive antisouthern bill, adopted by the House. I do not exaggerate when I state that I talked with a minimum of 100 Members of the House, from all sections of the country, for a policy of fairness in making the law applicable to all States. I now make the statement that not one of my colleagues disagreed with this doctrine of fairness. However, I regret that the power exerted by minority groups on both the House and the Senate was such that I fear that the Voting Rights Act will suffer the same fate when we vote on the conference report as did the Stennis amendment in the conference.

But, Mr. Speaker, whatever happens to the Stennis amendment here today, I do wish to extend my public appreciation to my colleague for the job he did in the Senate. It at least alerted the public to the double standard prevailing in the enforcement of so-called civil rights legislation.

Mr. Speaker, it is time to end this hypocrisy.

Mr. ALBERT. Mr. Speaker, shortly the House will take final congressional action on H.R. 514, the Elementary and Secondary Education Amendments of 1969. This legislation is a tribute to the initiative and workmanship of the distinguished chairman of the House Committee on Education and Labor, my dear personal friend, the gentleman from Kentucky (Mr. PERKINS). Under his wise leadership and steadfast diligence the Committee on Education and Labor has brought forth, and the 91st Congress has passed, a prodigious array of legislation. Last year we enacted a 2-year extension of the antipoverty program without crippling amendments and passed one of the truly great health and labor bills of all time, the coal mine safety statute. With the passage today of a 3-year elementary and secondary education measure, I believe it is fair to say that no committee of this, or any previous Congress, has ever exceeded the efforts of the committee headed by the gentleman from Kentucky in the production of progressive humanitarian legislation.

In all of these areas the initiative for these measures came from within the Education and Labor Committee rather than from the executive branch of the Government. As I have pointed out on earlier occasions, in the case of both antipoverty and coal mine safety, the initial proposals in these fields were offered by the gentleman from Kentucky, long before the Republican administration was prepared to submit any recommendations to the Congress. Even after public hearings were underway, the administration was exceedingly tardy in presenting its views for consideration. The final legislative product in both cases was solely the product of congressional expertise and determination.

The same holds true in the case of the elementary and secondary education amendments. H.R. 514 to extend the Elementary and Secondary Education Act of 1965 was introduced by Chairman PERKINS on the very opening day of the 91st Congress, January 3, 1969. Hearings commenced on January 15 but Secretary

Finch was not prepared to testify until March 10, the last day of the hearings. The Education and Labor Committee promptly cleared H.R. 514 on March 18 and it was passed by the House on April 23.

At every step of the legislative process, Chairman PERKINS has had to doggedly fight the efforts of the administration to reduce the duration and scope of this measure. When the smokescreen of verbiage raised by administration spokesmen has been cleared away, their objections to the proposals of the gentleman from Kentucky have always turned on the basic proposition that the administration was more interested in saving a few dollars today than in insuring the educational birthright of the Nation's children in order that this Nation might enjoy a more healthy, harmonious, and prosperous tomorrow.

H.R. 514 will assure effective Federal support for the education of the disadvantaged, impacted school aid, library and textbook programs, the education equipment program, support for education of handicapped children, continued support for guidance and counseling activities, supplemental educational centers and services, grants to State educational agencies for improvement of their leadership role in education matters, extension of expiring portions of the National Defense Education Act, and other critically important education authorizations.

My congratulations to the gentleman from Kentucky (Mr. PERKINS) and his colleagues on the Education and Labor Committee for a job well done.

Mr. PERKINS. Mr. Speaker, I now yield 5 minutes to the distinguished gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I support the conference report, and urge my colleagues to also support it.

I would say to my colleagues that it is not everything that was in the House bill, and it is not exactly the way we wrote it in the House bill. However, I believe it was a good compromise, and it definitely was a compromise between the House and the Senate versions.

The Senate had a 4-year extension, and the House had a 2-year extension. We compromised on 3 years.

The Senate provided for an automatic extender for another year, and we provided that there would be an automatic extender only if neither the House nor the Senate reported a bill out.

And in that regard the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS), indicated in the conference that he would see that we would have a bill up before us the end of the 3-year extension.

I would ask the chairman, the gentleman from Kentucky (Mr. PERKINS), if that is not correct; that he made such an assurance that we would have a bill before the House for action prior to the extension of this act?

Mr. PERKINS. Let me say to my distinguished colleague from Minnesota that I personally feel—and if I remain as chairman of the committee, and if my colleagues go along with me—that we certainly will have a bill at an early date. We should not wait until the eleventh hour. We should commence hearings, in my judgment just as soon as the census data is available. In that way we can do a better job if we do not have to work under pressure. It is my hope and my intention to bring a bill to the House floor before the expiration of this law which would be 3 years hence.

Mr. QUIE. I would also say to the gentleman from Kentucky that, as the gentleman mentioned in his comments, we visited in the fall of 1968 and agreed to bring up the bill as the first item of business in our committee, an extension of the Elementary and Secondary Education Act of 1969. We reported such a bill in April 1969 and that would have been ample apportunity for the other body, if the other body had completed their work, as they should have, so that last year the Committee on Appropriations could have provided the forward funding that is authorized. The gentleman from Kentucky anticipates that if he is the chairman of the committee, that he will have the same expeditious and early action in order that there will be forward funding, and assurances to the school districts of what they will be receiving at that time.

Mr. PERKINS. Mr. Speaker, let me compliment the distinguished gentleman from Minnesota for his statement. That was the purpose of the meeting we had in November of 1968. We wanted to get a bill to the floor early in 1969 because of the forward funding provisions and the expiration date of June 30 of this year. We did our duty, and met our responsibilities but the other body did not act as expeditiously as we acted.

Mr. QUIE. Mr. Speaker, I thank the chairman, the gentleman from Kentucky (Mr. PERKINS) and because of his assurances I feel assured that this is a 3-year extension of the Elementary and Secondary Education Act, and not a 4-year extension, as could be the case if the House did not take action, because I doubt that the Senate is going to act without our prodding.

There was one provision of the House bill that I very strongly favored and, in fact, was one who was instrumental in writing it. A substitute was included which was accepted on the House floor to the bill, coming out of the committee, and that was the consolidation of four titles in the ESEA laws and the National Defense Education Act.

It was to consolidate title V and title III from the NDEA and title II and title III of the ESEA and the Senate conferees did not go along.

However, we did consolidate title V of the NDEA and title III of the ESEA.

Despite the fact that I personally am disappointed that more of the House-passed education bill is not found in the final bill agreed upon in conference, I support adoption of the conference report.

There are two specific matters which require clarification. One is the possible ambiguity of the language in the enlarged title III of ESEA with respect to the participation of private school pupils in counseling and guidance programs funded under that title. In a nutshell, it is the intention of the conferees—as would have been perfectly clear if we had followed precisely the action of the House on H.R. 514—that private school pupils and teachers participate in guidance and counseling programs arranged under title III as expanded by the consolidation with title V(A) of NDEA exactly as they would in any other title III project.

The House-passed bill combined titles III and V(A) of NDEA with titles II and III of ESEA in a single new consolidated program with assurances that private school pupils and teachers would share in the benefits of the program as they presently do under ESEA. Unfortunately, title V(A)—counseling and guidance—of NDEA and title III—instructional equipment—of NDEA were enacted years before a method had been worked out for the inclusion of nonpublic school pupils; this would have been corrected by the House action.

The conference, however, adopted only a partial consolidation of these programs—folding title V(A) of NDEA into title III of ESEA without all of the inconsistent provisions eliminated from the two titles. However, since Senator PELL has made essentially the same statement in the course of the Senate discussion of the conference action, I think that there should be no problem of interpretation for the program administrators. The States gain the advantage of not having to supply matching funds for counseling, guidance, and testing programs, and private school pupils and teachers benefit by being included in these programs in the same manner as under the existing title III of ESEA.

While this is a very limited type of consolidation, it eliminates some duplication of effort and certainly is a step in the right direction. Hopefully, we can next act to join similar titles in NDEA and ESEA authorizing funds for instructional equipment and text materials, thus completing the House action of last year on H.R. 514.

The second matter may present more difficulty. This is the matter of the Senate-approved language requiring school districts receiving ESEA title I funds for disadvantaged children to maintain in title I schools, with State and local funds, a level of services comparable to that found in schools of that district which do not receive title I funds.

The purpose, very simply, is to assure that State and local funds provide services for disadvantaged children, more nearly equal to those available to children attending schools in more favored sections of the school district. Title I funds should result in increased compensatory services above what is normally available for all children in a school district.

I am confident that the law required this even before the Senate added any specific language, because the law requires that Federal funds not be used to replace State and local funds. To me it is a self-evident proposition that where we see within the same school district a level of services and a level of expenditures in favored schools far above the level in schools attended by large numbers of low-income pupils, we are seeing a form of discrimination. It is also evident to me that where title I funds merely make up the difference in the way

such schools are treated they in fact replace State and local funds. The whole purpose of title I is to concentrate and increase efforts on behalf of disadvantaged children because these children need more help than their more fortunate peers. Unless comparable services are provided before the application of title I funds in the schools serving concentrations of poor children this purpose is defeated.

Mr. Speaker, although the data now available is fragmentary and in some cases outdated, it appears that schools serving poor children very often do not provide services comparable to schools in more fortunate areas within the same school district. This is apparently a national problem which is found in large cities of the North just as often as in the cities and counties of the South.

Right here in Washington, D.C., only a few years ago, we found a range of expenditures per pupil in elementary schools from $393.97 in a ghetto school to $600.96 in a school serving a high-income area.

The latest data I have seen from the State of Mississippi suggests a situation no better—and not much worse—than that in Washington, D.C. The Mississippi figures show differences of expenditure from State and local funds between title I schools and nontitle I schools ranging almost as high as 2 to 1. They also show that even with the addition of teachers hired with title I funds, the pupil-teacher ratio generally is higher in the more favored schools. Following this statement there are two tables showing the figures I have discussed.

The Senate language was addressed to these types of situations, which can be found all over the Nation, with respect to schools within the same school district. My guess is that any enterprising newspaper reporter in virtually any State or city can develop the same type of information, so I am not pointing my finger just at the Nation's Capital or the State of Mississippi where such figures happen to be available. In many places they are rather carefully disguised. The important thing is that we do whatever we can under the law to help correct these situations.

The conference committee spent a great deal of time on this new Senate language because it is recognized that the comparison of services between one school and another present some difficulty.

The bill reported by the conference committee, in section 109, provides that "State and local funds will be used in the district" of a local educational agency "to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas of such district which are not receiving funds under this title."

The purpose of this language is to assure that title I funds are being used for compensatory education, not for educational programs that the school district provides in other nontitle I schools. To assure that title I funds are being spent over and above local and State funds, the Office of Education has asked school districts to provide State educational agencies with details concerning their title I and nontitle I schools. The language reported by the conference is intended to reinforce the Office of Education's request.

Unless the services offered in each school, taken as a whole, are compared against the services offered in a nontitle I school, the achievement of comparability cannot be ascertained. "Services," as defined by the Office of Education, covers the wide range of elements which make up elementary and secondary education. Since teachers' salaries make up 70 to 80 percent of a school district's budget, these, of course, would need to be taken into consideration. So, too, would the number of paraprofessional personnel employed by a title I school, the instructional materials and books available in project area schools, the curricular offerings, and other similar services. Details concerning all these services will be submitted by local educational agencies to their State educational agency, on or before July 1, 1971, so that they may develop plans for achieving comparability between project areas and nonproject areas by fiscal year 1973.

WASHINGTON, D.C.—TOTAL INSTRUCTIONAL EXPENDITURE PER STUDENT, ELEMENTARY SCHOOLS

Title I target schools [1] (low 5)	Nontarget schools (high 5)
$393.97	$600.96
423.06	544.93
425.72	528.02
428.68	518.59
432.06	511.18

[1] Includes title I funds.

MISSISSIPPI—1967–68 SCHOOL YEAR

[County school systems—Instructional costs per Pupil—State data]

Average for title I target schools [1]	Average for Nontarget schools [1]	Pupil/teacher ratio [2]	
		Target schools	Nontarget schools
$155.35	$286.05	1:27	1:18
170.84	263.71	1:25	1:25
175.44	324.71	1:23	1:18
183.10	301.73	1:27	1:23
187.80	239.01	1:27	1:23

[1] State and local funds only.
[2] Includes Title I teachers.

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman from Minnesota (Mr. QUIE) has expired.

Mr. PERKINS. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. QUIE. One thing that bothers me with the education bills we are passing, and that is the authorizations are so far beyond the amount we will realistically appropriate and we are holding out some false hopes, especially to that group, and the committee on full funding talk of the comparison of appropriations and full funding, and they will be able to talk about this a long time.

In fact, in 1973 the Senate amendment which we adopted would include children from families with incomes of $4,000 or less.

As you know, we are not full funding all the children from $2,000 income families or less, to say nothing of the $3,000 incomes, as provided in the present law. Going to $4,000 could be realistic if we were doing it to equalize the programs in various parts of the country.

But as in the present law, $3,000 figure will not go into effect until the $2,000 income family children are fully funded.

So the funding of children in that level between the $3,000 and $4,000 will not be funded at all until those from families below $3,000 are fully funded.

So I hope that the educators of the country will realize that we might just as well have put into this act such sums as Congress appropriates with no authorization limit and we will have the some kind of realism to it. I do not feel it is important enough to make an objection to the conference report. We have set unrealistic authorization levels before and I think they know it down at the White House and they know it down at the Budget Bureau and they know it in the U.S. Office of Education, and I believe the school systems of the country know it.

I wish we could be more realistic in the kind of figure we set, but that has not been the case in the past, and we have not changed our ways.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate the gentleman's yielding. I wish to join with him in his statement, by all means, and particularly join in support of the analysis he is making of the funding at the authorization level provided for in the conference report.

Mr. Speaker, I trust the action of the House today will be to adopt the conference report on the Elementary and Secondary Education Act Amendments of 1970. As one who had the honor of serving on the conference committee, I am satisfied that the position of the House has been essentially upheld. It is for that reason that I signed the conference report, but in so doing I also want to make clear my misgivings about some of the features of this report.

There is, for example, the provision that the 1970 census data may not be used prior to July 1, 1972, in determining the formula allocation for title I. A delay of this kind I do not support. But the conference was unwilling to accept the use of new data as soon as available. In addition, Mr. Speaker, there is the fact that the consolidation amendment of the House was emasculated by the conference committee. The new provision simply combines title III of ESEA, as amended, with title V–A of the National Defense Education Act. There is also a further consolidation of title III NDEA with section 12 of the Arts and Humanities Act of 1965. These are good as far as they go but this does not do all that the House passed version did.

In addition, the conferees took a step backward in reserving for the Commissioner 15 percent of the funds for title III, to fund applications outside of the State plan. This I did not support as a conferee, and I regret the conference committee action.

There are in title V certain added features which I do not believe sound. There has been added a new part C of title V for comprehensive planning and a new part D to provide for a National Council on Quality of Education. These

I did not believe were necessary, but they were nonetheless adopted by the conference.

The provisions regarding impact aid in the report will make changes in these laws more difficult in the future. This is unfortunate.

The extension of the existing authority for cancellation of student loans in the National Defense Education Act plus broadening it to include cancellation for service in the armed forces was not in my judgment a proper decision of the conference. I must say, Mr. Speaker, that the Senate version went far beyond this and thus the House conferees did maintain to some extent at least the House position in this regard.

Thus, there are some features of the conference report with which I am not satisfied, but as I have indicated on balance I believe the conference report is good. There are many features in the report which are very good. These include such things as the provision for comparability which was adopted by the Senate and which was not contained in the House version. This will be an important step in the right direction, but I am sorry that the conference committee delayed the effective date for this section for all practical purposes until July 1, 1972.

The conference report also contains a new provision which makes more public and available Federal aid applications at the local and State level. The House provision on bonuses for teachers and schools with high concentrations of educationally deprived children is contained in this conference report.

There are some additions to the Teacher Corps authorization which are important and sound. These include a provision for a Student Teacher Corps, for the use of Teacher Corps enrollees in working with Indian children and with correctional institutions. These are important additions to the present Teacher Corps program. The adoption of the Student Teacher Corps concept is particularly pleasing. This idea was embodied in the report of the Campus Task Force and I introduced the legislation in the House as H.R. 13133.

Last but not least, Mr. Speaker, I want to support the action of the conference committee in modifying the so-called Stennis amendment. The modification was resisted for a long time by the Senate conferees but was, I believe, a necessary change in the Stennis amendment language. The conference agreement provides that uniformity in applying the law shall apply to de jure segregation wherever found and that such other policy as may be provided pursuant to law relating to de facto segregation shall be applied uniformly wherever found. This distinction between de facto and de jure segregation is absolutely essential and is consistent with the statement of President Nixon on school desegregation.

Thus, Mr. Speaker, with the literally hundreds of different provisions found in both the House and Senate versions, I believe the House position has essentially been upheld. This extends the act for 3 years instead of the 2 years passed by the House but is a compromise with the 4 years passed by the Senate. There is a start toward consolidation of existing categorical grant programs which is important and was a part of the House version. There have been adopted from the Senate version a number of very good provisions. I urge adoption of the conference report.

Mr. QUIE. There is one provision that we adopted in conference that was in the Senate and not in the House bill, and that was for an additional amount, up to 30 percent, where there is a concentration of disadvantaged children. I believe that including school districts in this provision where there are 20 percent or more of the children counted under title I is not exactly a concentration, but I strongly support the principle because, it seems to me, the problems of disadvantaged children in the school districts where there are extremely high percentages of such children are much greater than in the schools where there is a lower percentage of disadvantaged children. If we can go at all by the report of Prof. James Coleman, the greatest influence on a child, the greatest cause of improvement in educational results is what that child brings from home or what the child next to him brings from home. Therefore, disadvantaged children are much better off if they are attending a school where a high percentage of the children are advantaged. It seems to be a greater influence than equipment, facilities, or even teachers.

However, where a very high percentage of children in school are disadvantaged, they do not receive the benefit from the presence of advantaged children sitting next to them, stimulating them and motivating them, and this provision will enable us to begin expanding funds and concentrating our efforts to reach those children who are disadvantaged. We have found from our studies in the Committee on Education and Labor that it will take substantial increases of money for the disadvantaged children to receive the same opportunity for educational quality that the advantaged children have, just because of what they bring from home and their attempts there.

The other parts of this bill I pretty well agree with, with one exception, and that is it is my feeling that the forgiveness feature of the National Defense Educational Act student loan program, which was inaugurated to stimulate an increase in the number of young people going into the teaching profession, just has not worked. It has not produced a greater percentage of the young people in our colleges who are going into the teaching profession.

If it had worked, we still would not want to extend it. We must bear in mind that we have about saturated the number of teachers needed that we have produced out of our institutions of higher education. Extension of the forgiveness feature in the conference report to include veterans as well under the terms of the National Defense Education Act I think is unwise. But I do not feel we should be greatly concerned about that, because the Education and Labor Committee will report sometime this year an extension of amendments to the higher education legislation, and at that time I am hopeful we can remove the forgiveness feature entirely in order that grants to students not come in as forgiveness of their loan, but that they be made only to students who are in need at the time they attend college, so that all loans be repaid.

To the poor students an interest subsidy might be provided, but in the end all loans would be repaid.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Speaker, I take this time to clarify some legislative history.

Mr. Speaker, the conference report on H.R. 514 contains in section 109 the so-called comparability of services provision. This new requirement states that, before receiving title I funds, a school district must be providing services in project areas which, taken as a whole, are at least comparable to services being provided in the other areas of the district.

In conference, I opposed this provision which was in the Senate bill, but not in the House bill. The reason for my opposition lies not with the principle of requiring an equitable distribution of local resources before use of title I funds in poverty schools. Rather my opposition stems mainly from the methods which have been proposed to implement this principle.

On February 26, 1970, the administration issued guidelines enforcing this provision. Besides the presumptuousness in issuing guidelines on a provision passed by only one House of the Congress, I have grave concern with the methods proposed in those guidelines for determining "comparability of services." In particular, I am concerned with the requirement that the "salaries of principals, teachers, consultants or supervisors, other instructional staff, secretarial and clerical assistants" in project area schools be "equal to or greater than" the salaries of such personnel in nonproject area schools.

This means that if an area of a city has higher-paid teachers and secretaries because of transfer rights due to seniority, and most communities have such a system, it would be penalized for the salaries of these personnel. The schools in that area would have to make do with fewer teachers, librarians, counselors, secretaries, et cetera, because they were paid more than their counterparts in the ghetto. Or alternatively the school district would have to require a distribution of these older personnel throughout the city. Such a requirement would go to the very heart of collective bargaining agreements of many years standing and would bring complete chaos to our local school systems.

In order to clarify the congressional intent in accepting this amendment, I would like to direct my colleagues' attention to Senator PELL's remarks on the Senate floor on March 24. Senator PELL stated quite clearly that in determining comparability "salaries of instructional staff are to be considered only to the extent that salaries are a measure of services available to students." He further stated that "salary increments based on

length of service are not intended to be a measure of the service available."

This statement accurately reflects the conference's agreement. In no way do we intend that salary increases of teachers or staff members due to seniority be considered in determining comparability; and any guidelines already issued or to be issued to the contrary, are illegal and in violation of congressional intent.

It is further the sense of Congress that in determining comparability, the Commissioner may not take into consideration increases in salary due to additional degrees held by a teacher, where seniority is the principal reason for assignment of such teachers to a particular school.

Finally, nothing in this provision is to be construed as authorizing or instructing the Commissioner to order a local school board to transfer teachers in contravention of their seniority rights, where a seniority agreement exists between teachers and their local school board, in order to overcome imbalance of expenditures in the respective schools in such school district.

I wonder if I may ask the chairman of the committee if this is a correct reflection of the point of view of the members of the conference committee.

Mr. PERKINS. I think it is a correct reflection of the Senate conferees' view of the matter. It was never intended that the seniority principle be ignored. Let me state that the Senate amendment unlike the House bill contained a provision applicable to title I of the Elementary and Secondary Education Act which required as a condition to receiving Federal funds that the local educational agency provide assurance that State and local funds would be so used as to provide services in areas to be served by programs and projects under title I at least comparable to services from such funds provided in areas which are not so served.

The conference report requires local educational agencies to provide assurance that State and local funds will be used in the district of such agency to provide services which taken as a whole are comparable to services being provided in areas of the school district of the agency which are not receiving funds under title I. It requires local educational agencies to report on or before July 1, 1971, and each subsequent year on their compliance with the requirement. The conference settlement contains a further proviso that any finding of noncompliance shall not affect the payment of funds to any local educational agency until the fiscal year 1972.

During the course of the conference it was found that the Department of Health, Education, and Welfare had issued a guideline on the subject of comparability which raised questions with respect to the meaning of comparability. The language of the conference report as I have stated requires State and local funds to be used in the district of an agency to provide services in title I project areas when such services are considered as a whole are at least comparable to State and local services in nonproject areas. By the phrase "as a whole" the conferees intend that all the services available to students must be taken into consideration—books, equipment, and instructional staff.

Mr. PUCINSKI. By "services" we then mean the textbook materials and the educational aids and all other services of education but not whatever additional funds for salaries may be required by school A as against school B simply because of seniority rules?

Mr. PERKINS. We certainly do not intend to violate any seniority rules.

Mr. PUCINSKI. I think we had better nail this down.

Mr. PERKINS. All right.

Mr. PUCINSKI. Where we have another school that has teachers who do not have the seniority and are on a lower rate scale and we have another school where teachers have exercised their seniority and are receiving higher wage scales but are not necessarily better teachers, the mere fact that we have a higher salary schedule traceable to seniority is not going to require a school superintendent to take away funds from one school, funds being spent for services, and transfer them to another school to obtain equity?

Mr. PERKINS. No, it is not the intent to transfer simply on the basis of seniority, but it is intended on the other hand that comparable services from State and local sources should go into the low-income school district.

Mr. PUCINSKI. For services?

Mr. PERKINS. For services.

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

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

Mr. QUIE. Mr. Speaker, I think the gentleman from Illinois is absolutely incorrect. The intention of the conference was to include salary as well as services and as well as textbooks. There was an attempt in the conference to prohibit consideration of the salaries in considering comparability of services, but the conference refused to go along with that. There was even an attempt to write in that we should not include differences of salary because of seniority, but this was not accepted as a change in the language of the law. So it is clearly meant in services that, since 70 or 80 percent of the service costs include salary, we must include salary as a service.

There can be some consideration on the part of the Office of Education for the problems that exist for some schools where the most senior teachers attempt to work and because of seniority there is a difference in cost. There are some teachers who are paid extra for some things they do in order to get around merit pay and they tend to be in the better schools. But the intent is to get the same kind of services with the same kind of quality teachers.

Mr. PUCINSKI. The gentleman from Illinois is not wrong. The gentleman is quoting the distinguished chairman of the conference from the other body.

We had better get this straight here, so that we know what we are talking about.

Mr. QUIE. He is wrong, too, if his remarks are to be interpreted as excluding salaries from the determination of comparability. The conferees rejected that notion.

Mr. PUCINSKI. Unless there is unanimity of thought here we are going to throw every school system in this country into complete chaos.

The chairman of the Senate conferees said on the floor of the Senate that salaries of instructional staff are to be considered only to the extent that salaries are a measure of services available to students. He further stated that salary increment based on length of service is not intended to be a measure of the service available.

Unless we accept that language, if we try to put any other language in this bill, I am afraid many Members who would like to support this conference report will not be able to do so; so we had better have some agreement here.

Mr. QUIE. Mr. Speaker, if the gentleman will yield further, when title I of the Elementary and Secondary Education Act was passed it was the expectation this would be compensatory education on top of what was being expended.

Mr. PUCINSKI. Correct.

Mr. QUIE. I have figures from the District of Columbia. Today one target school, including title I funds, is spending $393.97 per child. In a nontarget school in the District of Columbia—and therefore they do not have any title I funds—the amount is $600.90.

What this means is that title I is only used to try to bring the services in the title I schools up. That means we will not get the results out of title I. That is why we have not in the past.

Mr. PUCINSKI. Unless we agree to the language of the distinguished chairman in the other body, let me tell the Members of the House what the net effect would be if we accept the viewpoint of the gentleman from Minnesota.

Let us assume we have one school that has a budget of $150,000, and $100,000 is used for teacher salaries. Let us assume we have another school that has a budget of $200,000, but because the teachers enjoy seniority rights, because they have been in the system longer, the payroll budget of that school is $150,000.

If we accept the rationale of the gentleman from Minnesota, since salaries are nonnegotiable, we would have to reduce services in school B. We would have to eliminate a librarian or a gym teacher or other services to bring the two schools to a dollar-volume comparability even though the fact the senior teachers get paid more does not mean necessarily that they are better teachers or that their students are getting a better education.

Unless we confine this to services, not salaries based on seniority, we are going to force schools all over the country to reduce services in order to bring in the parity the gentleman discusses.

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

Mr. PUCINSKI. I yield to the chairman, because this subject has to be clarified.

Mr. PERKINS. I believe I should tell the Members of the House that we postponed the effective date of this compa-

rability section, which is presently being discussed, for a period of 2 years. We wanted to make certain that services distributed comparably among the wealthy schools and the poorer schools, and at the same time provide school districts a reasonable time within which to make necessary adjustments.

Mr. PUCINSKI. Mr. Speaker, on another matter, the conference report on H.R. 514 contains a major amendment to the impact aid laws—inclusion of children residing in federally assisted public housing. I am pleased that both the House and Senate accepted the proposal which I first suggested to bring additional help to our Nation's school systems. Although this amendment was in the House bill as well as the Senate bill, the conference committee unanimously accepted the Senate version.

In order to clarify congressional intent in accepting this version I would like to direct my colleagues' attention to the colloquy between Senators PELL and EAGLETON on the Senate floor on March 24. This discussion made crystal clear that there would be two ways of funding this provision. Either "a" and "b" children would be fully funded and then the remainder of the appropriation would go to the public housing section, or the Appropriations Committee could put in a separate line item for the funding of this section regardless of the level of funding for "a" and "b" children.

Because of technical difficulties with the language, I would like to affirm these statements of the Senators and emphasize that the conference committee did not mean to favor one method over the other. They are on an equal footing and the Appropriations Committee can freely choose one method or the other.

The SPEAKER pro tempore. The time yielded to the gentleman from Illinois has expired.

Mr. PERKINS. Mr. Speaker, I yield myself 1 minute.

As the gentleman from Minnesota stated, title I funds should be expanded on top of the regular programs in target schools. If there is a school district where 40 or 50 percent of the pupils in average daily attendance are within the low-income level, the whole school system can be upgraded with title I fund.

We specified that in 1965, and we elaborated on it in 1966.

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

Mr. PERKINS. Mr. Speaker, I yield myself 2 additional minutes.

In my area we have consolidated some of our rural schools, and there has been some criticism of it. But if the Members would go down there and see the good work that has been accomplished because of the consolidation, then the membership would agree with it 100 percent. So I say to you, since we postponed for 2 years the effectiveness of the comparability section, I feel this matter will be ironed out and there will be no real problem. In time then we will assure that the poorer schools receive the same amount of State and local money as do the wealthier schools in the same school district.

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

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

Mr. QUIE. What the effect of the language will be in this 2 years is that the local schools will have to begin reporting on the comparability of services and then reporting on the comparability of expenditures between the schools. Many schools have been trying to pass this over. Now there will be demands to find out whether there is comparability of services between schools serving high concentrations of poor children and more favored schools in a district. This will be the kind of an amendment it will be.

Mr. MONTGOMERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ALBERT). Does the gentleman from Kentucky yield for that purpose?

Mr. PERKINS. I yield to the gentleman.

Mr. MONTGOMERY. Mr. Speaker, who actually controls the time on this bill, and how much time is there on this conference report?

The SPEAKER pro tempore. The gentleman from Kentucky has control of the time and he has 23 minutes remaining.

Mr. MONTGOMERY. There was 1 hour.

One other parliamentary inquiry. Would a motion to recommit this conference report be in order?

The SPEAKER pro tempore. No, it is not.

Mr. MONTGOMERY. What would the vote be on, then?

The SPEAKER pro tempore. The vote will be on agreeing to the conference report.

Mr. MONTGOMERY. I thank the Speaker, and I thank the gentleman for yielding to me.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield to me?

Mr. PERKINS. Yes. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I want to get one thing straight here. Due to the language, the wording by the chairman of the other body, it says salaries of principals, teachers, consultants, and supervisors or others of instructional staff in determining comparability shall not be counted. Do these reflect the correct thinking of the conferees?

Mr. QUIE. No, it does not. Since salaries represent up to 80 percent of school expenditures it would not even be possible to ignore them in determining comparability of services, and the conferees specifically rejected a motion to exclude salaries.

Mr. PUCINSKI. The answer to that question, I think, is paramount as to whether or not this conference report is to be adopted.

Mr. PERKINS. Let me say that the language in the comparability section, if you read it, states that the services provided a poorer school must be comparable to a wealthy school in the same school district. In considering comparability you take services as a whole and not item by item.

Mr. PUCINSKI. But that is not what they said.

Mr. PERKINS. But that is what the conference report states.

Mr. PUCINSKI. They said salary increments based on length of service are not intended to be a measure of service available. Can we get a simple yes or no answer to that?

Mr. PERKINS. Let me say to my distinguished colleague that he and I have discussed this matter in detail, and may I remind him that the effective date was postponed for 2 years.

Mr. PUCINSKI. It merely postponed the problem.

Mr. PERKINS. School districts need not report under the comparability section until July 1, 1971, and need not comply until fiscal year 1972. We postponed the effective date to allow school districts an opportunity to bring themselves in compliance. No one wishes to upset or interfere with systems which provide salary increments based on length of service.

Mr. PUCINSKI. Mr. Speaker, the chairman knows the guidelines that were handed down on this by the U.S. Office of Education and he knows that all of it is counted, including seniority. You know that.

Mr. PERKINS. That is correct. But school systems, for general education purposes, have 2 years in which to make adjustments. It does not mean that services in wealthier schools will be reduced. What it will mean—and I am sure the gentleman will agree that it is for the good—it will mean that a greater effort must be made at the State and local effort to provide services in poor rural schools and in urban ghettos.

Mr. PUCINSKI. Mr. Speaker, if the gentleman will yield further, one final question.

Mr. PERKINS. I yield to the gentleman.

Mr. PUCINSKI. On the question of parental involvement the conference report provides that the Commissioner shall set up rules and regulations promulgated with respect to the maximum feasible participation of parents in the operation of the school program.

I just want to know one thing. Does the language now contained in this conference report mean that policies and procedures, as well as programs and projects must be planned and developed and be operated in consultation with and with the involvement of parents? In other words, is all of this going to create the same problem as we have in the poverty program where we have similar language requiring maximum feasible participation of residents of the community? Is this going to require elections and all sorts of people breathing down the neck of the school principal in trying to run his school? Does this provision mean that we will see the same problems in operating our schools that we witnessed in the poverty program?

I would like for the chairman of the committee to answer that question.

Mr. PERKINS. Let me first answer your question and then I shall yield to the distinguished gentleman from Minnesota for further response.

It was the view of the House conferees that Senate language requiring community involvement in education programs be rejected. We deleted all of that type of language, and there was a consider-

able amount of it, except as it pertained to parents. I cannot see any objection to parents being involved in school programs. In too many instances parents do not take the interest in school programs that they should. The only purpose for keeping this language in the conference report is to stimulate greater parental involvement. I am not convinced that it would serve this purpose; however, the other body did not want to drop this language. I was perfectly willing to drop it but the other body stood firm.

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

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

Mr. QUIE. I would say that the interpretation of the gentleman from Illinois (Mr. PUCINSKI) that involvement would not mean that they would have to have elections like in community action agencies and where the parents might request that they be allowed to run the program. This is not at all what we intended. What we meant when we accepted the Senate language is that they should be involved to the extent that they could give advice to the people involved, know what is going on in the programs, and serve on committees of the local school if they wanted to assist in the decisions with reference to the kind of programs which the gentleman from Illinois mentioned.

Mr. PUCINSKI. Can they hold up the programs? If there is no agreement from this group, can they hold up the program?

Mr. QUIE. There is no intention to hold up the program.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, it is to be noted that the conference committee retained the so-called Stennis amendment, named for its author, the distinguished Senator from my State, Hon. JOHN C. STENNIS, a great American who recognizes that education of our people is a must if our Nation is to long endure.

The provisions of the Stennis amendment are as follows:

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

SEC. 2. (a) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

Mr. Speaker, following this provision, the conferees added the following language:

(b) Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

We all know that since the Brown case was decided by the Supreme Court in 1954, laws providing for segregation have been unconstitutional and of no force and effect. No, of course, "de jure" means "by law"; and since such laws no longer have any force or effect, there is no "de jure" segregation.

The conferees knew this, of course, but not wishing to repeal the policy statement of the Stennis amendment they retained that language, while adding section 2 (b), which I again quote:

(b) Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

With this they apparently satisfied some members of the conference but did no damage to the Stennis amendment.

Actually, Mr. Speaker, the words "whether de jure or de facto" were added to the original Stennis amendment in the same way. They were harmless and unnecessary; but by adding them the Senator picked up some votes.

Mr. Speaker, now we turn to other provisions added by the conferees. I quote:

(c) Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally-assisted programs and activities as required by title VI of the Civil Rights Act of 1964.

(d) It is the sense of the Congress that the Department of Justice and the Department of Health, Education, and Welfare should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States.

Now a reading of title VI of the Civil Rights Act of 1964 will show that this provision, too, is virtually meaningless so far as schools are concerned, for all public schools are desegregated as that term is defined in title IV of the same Civil Rights Act of 1964.

In view of these facts, you may ask why we oppose such additions. It is because we are fearful that these additions will be misconstrued by the Department of Health, Education, and Welfare and perhaps by some Federal judges. To those who might be tempted I say of course the conference could have stricken the Stennis language; instead the conference kept it and added language which brought agreement but did no violence to the Stennis provisions. It happens in conference all the time.

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

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

Mr. McCLORY. Mr. Speaker, the statement of the managers on the part of the House provides definite assurances that schools with high concentrations of children from low-income families may receive special grants.

In addition, I note that programs of vocational education are to be expanded under this legislation.

These two features of this bill—as embodied in the conference report—are of particular significance in the education of our elementary and secondary school children—in areas where there are high concentrations of children from disadvantaged backgrounds.

A crisis confronts our public schools where black students, Spanish-speaking students, and other disadvantaged groups are involved.

My older son is a junior high school teacher in Berkeley, Calif., and my younger son is a high school English teacher in Richmond, Calif. They are both dedicated young men seeking to help answer the needs of our less fortunate youth in complex, integrated classrooms. My older son, Michael, writes as follows:

A new month, a new semester. The school year, now half over, continues tomorrow. My reactions to teaching (and almost everything else) change constantly. Mostly, it's a futile gesture. The public schools, as presently constructed, financed and administered, are barely scratching the surface of the enormous problems facing the nation's young people. Black students in general, and black as well as Mexican males in particular, lag far behind their white and Oriental counterparts. The problem is that many of these students will leave the school system with inadequate skills to meet the demands of modern America's complicated labor market. The job is far too expensive for the local communities to deal with under our present systems of taxation. The state administration is taking on an increasing share of the burden, but its tax base remains insufficiently broad. What we need to begin to realize is that education is as important to the strength and stability of this nation as national defense, and that until we are willing to give education as much of our resources and attention as we presently do to our military situation, we will continue to experience deterioration from within.

I'm not really depressed about the situation. Perhaps I should be. I get a lot of satisfaction out of teaching and seem not to experience many of the problems so commonplace in the lives of a fair percentage of my fellow teachers. But, at the same time, I believe that unless the government begins to move more forcefully in this area very soon, we may find that solving the problem without an internal upheaval, violent in nature and unpredictable in its repercussions, is not possible. Not a pleasant prospect.

I would conclude from this firsthand experience that special measures, possibly working with black and Mexican students on a 1-for-1 or 1-for-2 basis, may be essential in those schools where such problems exist—in order to prepare these young Americans from disadvantaged backgrounds to become useful citizens in our society.

My younger son who spent 2 years in a Swiss public high school, and who now teaches English at the Richmond, Calif., High School, has set forth his views in the following paragraphs:

Among other topics of discussion, we debated at length the future of education in this country. Certainly the inner city school situation is reaching a crisis situation. What is required is a recognition that the young people of this country are not being reached by either the curriculum or the teachers. The recent cut in appropriations by the Nixon administration may be helpful in the short run, but its implications for the future are ominous.

My present salary just barely supports me and I'm receiving what must be recognized as a higher earning than most of my colleagues. But salaries are not the real point. Every day in my classes, I see students that will soon be out of school without any real preparation for the jobs they must seek out. We must come to recognize the young

people as this nation's most valuable resource. That education has been ignored so long *by the community* (primarily) must be seen as a major flaw in democracy. Certainly the example of a country like Switzerland, where unemployment is non-existent, must have glaring implications.

I would conclude from his observations that greater emphasis must be placed on vocational education in order to prepare a larger segment of our youth for gainful employment.

In the case of both of these statements directed to me by my sons, I feel that in a large sense the Congress has recognized the problem and the need. However, it is obvious that the problem is not being solved and the need is not being met. Accordingly, the charge is directed at us and at the Office of Education to initiate further action, and implement legislative programs which have been established.

This vital task must be performed promptly and wisely. Certainly, there is no occasion for partisan differences between us. The very survival of our civilization depends upon the quality of education which is made available to our young people today. The solutions to the problem cannot be postponed—because, if postponed, the young people will no longer be young and the consequences which we are endeavoring to avoid will then no longer be avoidable.

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

Mr. PERKINS. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. Where in the report, or is there any place in the report where the figures are pulled together with respect to the cost of this legislation as it left the House and as it now stands as a result of the conference?

Mr. PERKINS. The estimated total authorization in the conference report for fiscal year 1971 is $7,148,600,000. For fiscal year 1972, is $7,717,200,000. For fiscal year 1973, it jumps to $9,915,000,000.

The total estimated authorization in the House bill for 1971 was $7,310,800,000.

In the conference report it is a little less, that is, $7,148,600,000. In the House passed bill for 1972 it was $7,678,100,000; under the conference report it is $7,717,200,000. The House bill did not propose a fiscal year 1973 authorization. The conference report contains the Senate figure which is $9,915,000,000.

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

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

Mr. QUIE. One of the reasons why the conference report seems to be less than the House figure is that we included two titles of NDEA in our consolidation.

Mr. PERKINS. That is partially correct.

Mr. QUIE. This only included one. Therefore one title is not in that. Therefore it is dropped. It really comes out to about the same in 1972 and 1973 between the conference report and the House figure.

Mr. PERKINS. That is correct but also the House bill contained the $1 billion annual authorization for the consolidation, while also extending titles II and III of ESEA with separate authorizations. Further, the Senate bill contained certain programs which the House considered as separate legislation; such as the Vocational Educational amendments and the Learning Disabilities Act.

Mr. GROSS. If the gentleman will yield for another question: Do I understand the impacted school aid is extended in the conference report to 1973, or is it to 1974? Which is it?

Mr. PERKINS. It is extended through fiscal year 1973.

Mr. GROSS. I thank the gentleman.

Mr. PERKINS. Mr. Speaker, I now yield 5 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I rise in opposition to the conference report of the Elementary and Secondary Education Act. Mainly because the majority of the conferees of both the House and the Senate have seen to it that one section of the bill will apply to only one region of this great Nation of ours.

When the bill went to conference it contained an amendment authored by Senator JOHN STENNIS. This amendment was not an edict, a law, or a rule. It was very plainly and simply a statement of policy. A statement of policy that said public schools throughout the United States should be treated equally and fairly and all such schools should take steps to end segregation whether de facto or de jure.

I ask my colleagues what is wrong with this amendment, this statement of policy? It is quite evident that the courts need some direction in this matter. They need to know whether this Congress wants to end all segregation or just segregation in the South. The Stennis amendment as originally written would have pointed the way for the courts as well as the executive branch.

Is it so wrong to want equal treatment for all in all parts of the Nation? This is the philosophy that has been so eloquently espoused by a goodly number of Congressmen and Senators in their drive to pass so-called civil rights legislation. Is not segregation segregation no matter where it occurs or under what circumstances?

Mr. Speaker, I would like to share some statistics with my colleagues. These are not new facts, but they are facts that many tend to want to forget or never admit in the first place. I hope the Members will listen because I believe they will find the statistics interesting.

In the State of California, over 77 percent of the black students attend public schools that are majority black. In Illinois the figure is 86.4 percent; Indiana, 70 percent; Maine, 72.8 percent; Michigan, 79.4 percent; Missouri, 75.4 percent; New York, 67.7 percent; Pennsylvania, 72.5 percent; and Wisconsin, 77.5 percent. Of course, in fairness, I would be quick to point out that the figures are as high or higher in the South. But the fact still remains that the same conditions prevail in the North as prevail in the South. Surely, if it is wrong in the South, it is equally wrong in the North.

My colleagues from the North say their segregation is caused by neighborhood patterns. Were not these patterns caused by their constituents refusing to allow Negroes, Cubans, Indians, Mexicans, and Spanish-Americans to purchase homes in certain areas of the cities and towns of the North? And was not this refusal backed up in part by State and local government through ommission or commission? And does this not mean in effect that de facto segregation in the North was really a result of a form of de jure segregation?

Let me refresh your memory on the Stennis amendment. It reads as follows:

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race, whether de jure or de facto, in the schools of local educational agencies of any State without regard to the origin and the cause of such segregation.

That is very plain, very simple, and very straightforward language that spells out the desire of the Congress to end all forms of segregation on a nationwide basis. But after the conference committee got through with the amendment it came out saying, in my opinion, that de jure segregation would continue to be illegal, but we are only going to look into de facto segregation. Now, I ask you, what kind of reasoning is that?

The Stennis amendment called for one uniform policy, that means one policy, by its very name, coming from the Latin word "unus" for one. It is a uniform policy—one policy. However, the conference committee seeks to provide two separate policies.

It is puzzling to me how the conferees can reconcile their standing for desegregation of the public schools in the South and maintaining segregation in areas outside of the South. That is exactly what is done by the conference report. They freeze into law segregation that exists outside the South by protecting de facto segregation.

They say, "Southland, you are de jure and have one type of segregation and these laws will apply to you. But in the North, there is de facto segregation, and the laws will not apply to them."

At least the conferees admitted that de facto segregation was wrong when they said we will look into it. But evidently they were unwilling to go all the way in the name of fairness and say not only is it wrong, but we think it should be the policy of the United States to end all patterns of de facto segregation.

Earlier I mentioned the Stennis amendment was needed in order to give direction to the executive branch and the courts, and more specifically the Department of Justice and Department of Health, Education, and Welfare. As an example, the Justice Department has been involved in more than 100 lawsuits since 1968 concerning public education. Only seven of these suits were filed outside the South and only two of these seven have been filed since 1969. Does this sound like a record of equal enforcement of laws throughout the country? I say no. What it does exhibit is the discriminatory use of laws allegedly passed to end discrimination.

Mr. Speaker, I would point out to my colleagues that there is no halfway form of segregation. Under the laws of this great Nation there is no degree of segregation that is considered illegal while allowing another degree of segregation to be legal. You either have segregation or you do not have it no matter what the cause. It is as plain as the difference between night and day. There is no middle ground, there is no gray area. It is my contention that there is flagrant segregation in the North, and if it is illegal in the South, then it is illegal in the North.

I would like to pose a question to my colleagues. If it is all right to bus students and unitize schools in the South to end patterns of segregation, why should the same policies not be followed in other parts of the Nation to end segregation there? Could it be when this shoe of nondiscrimination is on the foot of some of my colleagues, it begins to pinch? Could it be that some of my colleagues want the people of the South to do as they say, but not as they do? I think it is time we all took a good, long, hard look at ourselves in the mirror and ask if we really want to be fair about this matter or do we only want to pay lip service to equality at the expense of the South?

Mr. Speaker, only last week my very distinguished colleague, BILL COLMER, stood in this well and asked the question:

When is the South going to be allowed to rejoin the Union of the States?

I would like to ask the same question in a different way. When is the North going to decide it is a part of the union of the States and the laws passed in this Chamber should apply to the North in the same manner and degree they apply to the South?

Mr. Speaker, the Congress is about to pass on a national school desegregation policy. The policy laid down should not only be sound, but it must be without conflict, contradiction or confusion, and most important of all it must and should be uniform. It would be a great disservice for the Congress to leave the matter in the state of uncertainty that now prevails about what Congress did and did not provide and/or intend in the policy about to be adopted.

If we are not going to be clear, concise, and fair in developing our policies, then we should never develop the policy in the first place. For this reason, I respectfully urge defeat of the conference report.

Mr. MONTGOMERY. Mr. Speaker, I would like to ask the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) to explain to me what paragraphs (b) and (c) do to section 2 of the Stennis amendment—what effect this actually has on the Stennis amendment which said that integration would be enforced throughout the land and then you added (b) and (c) to it. What does (b) and (c) mean, I would like to know?

Mr. PERKINS. Let me say to my distinguished colleagues that the conferees on the House side did not go along with the Stennis amendment, but we have some meaningful substitute as a statement of policy to it. At least I feel that way. You and I both know that the 1954 Supreme Court decision in a case, originating in Kansas, Brown against Board of Education, said that discrimination on account of race could no longer be tolerated and that the schools could no longer continue a policy of maintaining separate schools for whites and blacks. What we have provided in the conference report is set forth clearly in the statement of the managers and I quote:

The Senate amendment provided that it is in the policy of the United States that guidelines and criteria established under title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation. The House bill contained no comparable provision. The conference agreement provides that it is the policy of the United States that such guidelines and criteria dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation. It provides that such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found. It is stated that nothing in the section can be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964.

The SPEAKER pro tempore (Mr. PRICE of Illinois). The time of the gentleman from Mississippi (Mr. MONTGOMERY) has expired.

Mr. PERKINS. Mr. Speaker, I yield to the gentleman from Georgia (Mr. LANDRUM) 5 minutes.

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

Mr. LANDRUM. I yield to the gentleman.

Mr. BEVILL. Mr. Speaker, I would like the RECORD to show that I concur with the statements made by the gentleman from Mississippi (Mr. MONTGOMERY) with regard to the Stennis amendment.

Mr. LANDRUM. Mr. Speaker, just a few years ago, less than a decade, as a matter of fact, the burning issue in this Congress was whether or not to have Federal assistance to education at the elementary and secondary level.

We overcame the obstacles to that question. We adopted provisions providing Federal assistance. I am glad we did. I helped to the limit of my very limited ability to do that because I felt that this Nation had a very vital interest in the public education program and the children of this Nation. I still feel that way today.

But I am greatly concerned by the action that the conferees have taken in the field just discussed briefly by the gentleman and friend, proceding me here, the gentleman from Mississippi (Mr. MONTGOMERY) and by the distinguished chairman of the committee, and my friend, the gentleman from Kentucky (Mr. PERKINS). As a matter of fact, we do not have de jure segregation any more. As the distinguished chairman has just said, the Supereme Court in Brown against Board of Education outlawed de jure segregation. There is no segregation any more by law. Yet the conferees set up in paragraph (b) of the amendment to the so-called Stennis policy amendment a provision which I fear could very well say to the courts that this Congress recognizes, or wants the courts to recognize that there is still de jure segregation. The fact of the matter is that the only segregation that exists in this country today is de facto segregation, and that that segregation occurs principally because of the housing patterns of this Nation. Its greatest impact is in the large cities, in the metropolitan areas.

The only way that has been suggested by our leaders to overcome this is by a method referred to as busing. That is, taking children out of their home community, destroying the neighborhood school, and sending them away somewhere else.

This bill, this authorization does nothing to prevent busing. It takes away all efforts to prohibit busing. And yet just as a decade ago the burning issue of this Congress was whether or not we would have Federal assistance to education, the burning issue today in this Congress and in this Nation is busing these schoolchildren.

As a matter of fact, according to the newspapers, the Gallup poll on the subject shows the Nation 8 to 1 against the busing policy.

The neighborhood schools must be preserved. They will not be preserved if in the administration of this law paragraph (b) added by the conferees to the Stennis policy amendment is observed, because experience has taught us that those over in Health, Education, and Welfare charged with the administration of laws such as these are going to say that because one section of the country once had segregation by law or de jure segregation, that despite the outlawing of that or the overruling of that by the Supreme Court, you still have it, and, therefore, we are going to enforce one policy there and another policy in another part of the country.

I have tried, and I know most Members here have tried to be a national legislator. I think that is what we are. I think that is our full responsibility. I think every law, every act passed here ought to apply to every section of the country, to every citizen of the country alike, without exception. I accept integration as a matter of fact. It is an accomplished fact. It has been accomplished by law. We do not like some of the inconveniences of it, but we still observe the law and accept it. We want everyone educated. I hope this House of Representatives will go on record as saying we want these laws administered so that our children, of all races, of all communities, of all situations in life will be educated, and we do not want these laws administered so that the neighborhood school policy can be destroyed by its administration.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PERKINS. I yield an additional minute to the gentleman from Georgia.

Mr. LANDRUM. I thank the gentleman. I am grateful for his generous treatment. I know that I am not a member of the committee. But I feel strongly that you are doing a most unwise thing with this report in telling the courts that you recognize or want the courts to recognize that there is still de jure segregation.

Enforce this law in all sections of the country alike and Members will hear no quarrel or complaint from any section such as ours.

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

Mr. LANDRUM. I yield to the gentleman from Florida.

Mr. HALEY. Mr. Speaker, if we enforce this throughout the whole United States, there will be fewer Members of Congress who will be pushing this segregation on us. They do not want it and they will not have it and their people would remove those Representatives and they know it.

Mr. LANDRUM. Please stop forcing me or trying to force me and those who have common interests to be provincial legislators. Let us be what we are charged with being. Let me have the responsibility to be a national legislator. Let me legislate so it will affect the people in Chicago and Detroit and Atlanta alike. Do not force me to be a provincial legislator.

Mr. Speaker, we ought to send this back to the committee.

Mr. PERKINS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CAREY).

Mr. CAREY. Mr. Speaker, at this time I would like to inquire of the distinguished chairman of the committee or members of the conference on the part of the House about an explicit change which appears as a result of the action on the conference to affect ESEA, concerning the effect of title III of ESEA and title V(A) of NDEA, where we consolidated these titles; that is, title V(A) with title III. I believe it to be the clear intent of the conferees that the consolidation provided in the conference report will be a complete consolidation of the benefits now in title III and title V(A) and those will continue to be available on a broad basis to all students.

The conferees agreed to a consolidation of programs now authorized by title III of ESEA—supplementary educational centers and services, which also includes authorization for guidance, counseling, and testing of students—and with title V(A) of NDEA—guidance, counseling, and testing of students. The House bill contained a consolidation of four programs all of which would have provided the broadest flexibility to those administering the various programs so that all students eligible to receive assistance under one program would be entitled to participate fully in all other consolidated programs. It is the clear intent of the Senate conferees that the consolidation provided in the conference report be a complete consolidation so that the benefits of title III and title V(A) would be available to all students.

It is the intent of the conferees since title V(A) and title III of ESEA are to be consolidated in one operational program with all students eligible to receive assistance under title III ESEA having full entitlement to receive assistance of guidance, counseling and testing programs under title V(A) NDEA. Section 303(b)(4) of the report is clear authority for the consolidation of guidance, counseling and testing programs with supplementary educational programs as set forth in (2) and (3) of section 303.

Mr. PERKINS. The gentleman is absolutely correct, and I hope at the State level that the intent is carried out.

Mr. CAREY. Mr. Speaker, I thank the chairman of the committee.

Mr. Speaker, I listened to the remarks by my distinguished colleague, the gentleman from Georgia (Mr. LANDRUM), and others. It does seem to me we tend to stress this portion of the bill which relates to desegregation to a disproportionate degree.

The conference report does no greater violence to any basic concept of this bill. We may be losing sight to a degree of the improvements for all of this country that are in this bill, the major improvements in the additional term of funding, and in the notion that consolidating some of these titles will cut down redtape and harassment, if you will, between Washington and local school districts. That has been somewhat a bone of contention between Washington officials and the State school officials.

In other words, I think we are overstressing the minor points of difference between the Senate and House conferees as we come back to the House we must not ignore the fact that this bill is widely supported by all sections of the country, the South and the North, for the education of our children. I recall when we discussed this bill previously that we got into personalities and certain Members were disappointed when a certain school official was appointed. We do not have that kind of contention today.

I urge the support of the conference report.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I congratulate my colleague from Mississippi (Mr. MONTGOMERY) and support his remarks.

Mr. PERKINS. Mr. Speaker, I yield my remaining time to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Speaker, I think it is only fair to point out, contrary to what has been said here earlier, that there is nothing in this bill which authorizes or requires the busing of any youngsters to overcome racial imbalance. This bill only provides that where the Court has already ruled on de jure segregation, those rules shall be applied uniformly throughout the country. The Supreme Court has not ruled on de facto segregation. I am confident that when it does, it will sustain the neighborhood school systems.

I am confident that when and if the Supreme Court takes up the question of neighborhood schools, it will recognize the fact that the American people are opposed to busing children for the purpose of overcoming racial imbalance by a base of 8 to 1. Those are the results of the most recent Gallup poll which showed the people opposed to busing by a margin of 8 to 1.

The weight of recent lower court decisions leans toward sustaining neighborhood schools and against busing to overcome racial imbalance.

So there is nothing in this bill which says schools have to bus children to overcome racial imbalance.

Mr. ABERNETHY. Mr. Speaker, this conference report should be rejected. The matter should go back to conference with a directive to restore the so-called Stennis amendment.

Mr. Speaker, the request that we of the deep Southern States make of this Congress is very fair. We know that integration is now a fact. We fully understand that both Federal law and court decisions make such a fact of life. We only feel that its application in our area should be the same as in other areas and vice versa.

It simply is not fair to apply the law in one way to the North and West and in another way to the South. It really amazes me that some Members of Congress insist upon, work for, and fight for that which is not uniform throughout the country.

I shall not go into the statistics of school segregation in cities from Boston to Los Angeles. The record has already been filled with such. They are undisputable. Northern and western cities are filled with entirely black, as well as entirely white, schools. One Member of this body from a Western State who deplores southern segregation as much, if not more, than any other Member, is a resident of a city that is filled with racially segregated schools. Yet, he has made numerous speeches on this floor demanding the breakdown of neighborhood schools in the South and crosstown transportation in order to bring about racial balance.

Mr. Speaker, everyone knows that neither the Congress nor the executive branch, and I would say not even the courts, are applying the rules to each and all alike.

I hope this conference report will be voted down and sent back to the conference committee. I shall so vote, and I hope you will do the same.

Mr. COHELAN. Mr. Speaker, I am pleased to endorse the conference report for the ESEA authorization bill. This measure is of great importance to our Nation's schools. I hope that this body will be able to take deliberate and thoughtful action, and at the same time move with great speed.

This report represents a tremendous effort on the part of the conferees to come to grips with the many problems of education. I commend my colleagues for a job well done in this area. It is obvious that they have attacked the problem with great care and responsibility. The authorization levels realisticaliy indicate the magnitude and scope of the burdens of our educational system, and at the same time they represent a

realistic attempt to find solutions to these problems.

I would like to take a minute, Mr. Speaker, to remind my colleagues just what it is that we are doing today and to reiterate several points that I have many times before in this House. Education of our Nation's youth is the issue of the 1970's. It is an issue of the highest domestic priority and national urgency. The problem of education today is approaching the crisis level; the need to increase the Federal share for education is obvious and borders on the critical. We must focus in on the entire issue now—and we must focus on education with a commitment and a resolve never before demonstrated.

We are witnesses today in our society of an almost total dissatisfaction and alienation of a large segment of our people. I am convinced that the basis of this lies in the basic weaknesses of our schools. Statistics indicate a distinct relationship between the deficiencies in the public schools and the problems of poverty, unemployment, reduced earning power in later years, and social aberration.

And what about the crisis in our student population? We are concerned about the steady rise in student violence and protests, of the increase in the use of drugs, of the rise in the juvenile crime rate, of the high percentage of school dropouts. The whole concept of the generation gap is worrisome and a source of great concern. None of us like to feel or care to admit that we are not in communication with our younger citizens. If we continue to ignore this problem we have no defense against those who have a "copout" or "dropout" philosophy. If we continue to give greater priority to defense spending, to the war in Vietnam, to space explorations while ignoring the problems of education we should not be surprised at the disastrous results. This bill, in my opinion, represents a healthy trend in a constructive direction.

I am convinced that a conscious effort to meet the needs of our educational system is a positive step toward solving some of our social ills. Immediate action to increase the Federal contribution to education is imperative and I am pleased that this conference report furthers this objective.

I again commend my colleagues in conference for their great efforts made in this matter. They have made an honest attempt to deal with the problems of our educational system and now can do no less than accept this report.

I was particularly pleased to see that the conference recognized the importance of extending the ESEA authorizations for a 3-year period. It is essential to educational planning that there be sufficient time to plan programs, curricula, to secure supplies, equipment, teachers, and other school personnel.

The total ESEA authorization is $25 billion over a period of 3 years. I will not attempt at this time to reiterate the various provisions of this legislation. This was ably done by my colleague and chairman of the House Education and Labor Committee, Congressman CARL PERKINS. But there are a few comments that I would like to make at this time.

First, the conference quite correctly moved to clarify the ambiguities of the Stennis amendment. Although I find de jure and de facto segregation equally abhorrent, I feel that the Department of Health, Education, and Welfare should not be curtailed in their enforcement of the provisions of the Civil Rights Act of 1964 and thus the conference clarification was necessary. Second, as I previously mentioned, the level of funding in this legislation was commensurate with the demonstrable need. Also, I was pleased to see the prohibition against using title I funds to supplant State and local revenues which will go into effect in fiscal year 1972. This prohibition will assure that the funds in title I will be used for the undereducated.

In conclusion, Mr. Speaker, I urge my colleagues here in the House to give swift and overwhelming approval to this conference report. By this action the Congress will once again acknowledge its responsibilities to the educational system and needs of our Nation.

Mr. DONOHUE. Mr. Speaker, I wish to again express my convictions in support of the conference report on H.R. 514, the Elementary and Secondary Education Act Amendments of 1969. The conferees from both Houses have expended a great deal of effort, and the result in my opinion is a progressive but prudent piece of legislation.

The various titles have been discussed in great detail before, and I need not dwell on them. The major thrust of the bill is to commit the Federal Government to the achievement of the goal of quality education in America.

One of the most important provisions of the bill will authorize funds for a number of the programs for a period 3 years. As you know, Mr. Speaker, I have expressed to this body on many occasions my conviction that this extended period of authorization will provide stability and a potential for rational planning so badly needed by school officials across the country. Although many of us have advocated 5-year periods of authorizations, we cannot help but be pleased to note this encouraging first step toward encouraging more rational school decisions by assuring a substantial, reasonably fixed level of Federal aid.

Also, Mr. Speaker, I heartily support the amendments which will extend the coverage of impact aid programs to those districts with large school populations residing in federally financed low-rent housing.

Other important titles of the bill will provide the elementary and secondary schools of our country with funds to extend library resources, strengthen dropout prevention programs, and assist handicapped persons and those in need of vocational education.

No one doubts, Mr. Speaker, that these are times in which Federal dollars should be committed only with the greatest of care. We know that we must set priorities in our expenditures. But there is no more prudent investment than one in education, which is, in substance, an investment in the future of our Nation.

I therefore urge the swift and overwhelming approval of the conference report.

Mr. FLOWERS. Mr. Speaker, with much reluctance, I have today cast my vote against the conference report on H.R. 514, the Elementary and Secondary Education Act amendments. In taking this action, I would like to make it clear that I am not opposing Federal aid to education on principle. The record clearly reflects that I supported this same measure when it first came to a vote in this House on April 23, 1969. Indeed, I am hopeful that the Education and Labor Committee will soon again bring legislation broadly beneficial to education to the floor of this House so that I may continue my support of such worthwhile programs.

My vote against this conference report, Mr. Speaker, is rather a protest of the action taken by the conference committee in the substantial alteration of the language in section 2 of the bill which has, on occasion, been called the Stennis amendment. I am greatly disturbed that the members of this conference committee saw fit to distort so completely the obvious import and intent of the Stennis amendment. What has been brought back to us in this conference report as section 2 (a), (b), and (c) can do nothing less than confuse and confound and will likely write into law the exact opposite of the proposition originally intended. While engaging in rhetoric about de facto and de jure segregation, is the real issue not clear to the North, East, and West—you can go ahead with yours the way it always has been but the boot of oppression will remain on the South.

Are we to conclude that freedom of choice is the law of the land everywhere but in the South? Is forced busing undesirable everywhere but in the South? Is the neighborhood school concept valid everywhere but in the South?

Mr. Speaker, I don't know how today's action will be received by others, but I am not going to be fooled by cute distinctions as to what segregation might be founded in neighborhood housing patterns and what might have begun as a matter of law. There is no such thing as de jure segregation anymore—the Supreme Court has long since taken care of that, and it is no longer the issue. The issue is simply this: Are we going to have a single national policy on education, with single national standards, or are we not? I voted against the conference report on H.R. 514 today because of the language added in conference to the Stennis amendment. In my opinion, it tends to establish a dangerous procedent of regional legislation which should not be acceptable to any Member of the Congress of the United States.

Mr. ROYBAL. Mr. Speaker, in extending my enthusiastic support for the passage of the conference report on H.R. 514, the Elementary and Secondary Education Act amendments, I am delighted to participate in this significant action by the Congress to assure that all the Nation's youth will be afforded an equal opportunity to realize their full educational potential.

This $25 billion, 3-year authorization is of vital concern to every parent, every

teacher, every student, and every citizen interested in the future of our country—for it establishes a clear congressional recognition that education is an issue of the highest domestic priority and national urgency.

If adequately funded in the legislative appropriation process, H.R. 514 holds out the promise of effective Federal support for education of the disadvantaged, for the impact aid program so important to our major metropolitan centers like Los Angeles, for library and textbook programs, special equipment and education of handicapped children, and guidance and counseling activities, as well as for such other essential programs as bilingual education, supplemental educational centers and services, and grants to the State agencies for improvement of their educational leadership capabilities.

In my opinion, these are all vital programs that urgently need the wholehearted cooperation and active support of all levels of government, Federal, State, and local.

Because the 91st Congress has assumed the lead in beginning the difficult process of reordering our national priorities to focus more directly on the many domestic challenges facing the United States today—such as the present educational crisis—I am proud to have taken part in this congressional initiative, and I intend to continue these efforts in the future.

We, in Congress, are starting to insist that the real needs of 20th-century urban America be recognized, and that the Nation's resources be reallocated accordingly to meet those needs.

We also understand that there can be no more fundamental an investment in the country's future than providing full educational opportunity for all our citizens.

But, the growing cost of providing such an educational environment in heavily populated urban areas, like Los Angeles, where there is an ever-increasing demand for more schools and teachers has placed an impossible strain on existing funding capacities.

The hard fact is that local and State governments simply do not have the financial and tax revenue resources with which to do the job that is required.

Without substantial Federal financial assistance our major metropolitan centers would be unable to support adequate school systems under current conditions.

H.R. 514 is the Federal Government's affirmative response to this critical situation. It represents the willingness of the Congress to shoulder its fair share of the fiscal burden of education in the United States, and thus help meet this basic responsibility of our society.

The SPEAKER pro tempore (Mr. PRICE of Illinois). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

Mr. QUIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 312, nays 58, not voting 60, as follows:

[Roll No. 66]

YEAS—312

Adair	Edwards, Calif.	McDade
Adams	Eilberg	McDonald, Mich.
Addabbo	Erlenborn	McEwen
Albert	Esch	McFall
Alexander	Eshleman	McKneally
Anderson, Calif.	Evins, Tenn.	Macdonald, Mass.
Anderson, Ill.	Fallon	MacGregor
Anderson, Tenn.	Farbstein	Madden
Andrews, N. Dak.	Fascell	Mahon
Annunzio	Findley	Mailliard
Arends	Fish	Marsh
Aspinall	Fisher	Mathias
Baring	Flood	Matsunaga
Barrett	Foley	May
Beall, Md.	Ford, Gerald R.	Mayne
Belcher	Ford, William D.	Meeds
Bell, Calif.	Foreman	Melcher
Berry	Fraser	Meskill
Betts	Frelinghuysen	Mikva
Bevill	Friedel	Miller, Ohio
Biaggi	Galifianakis	Mills
Biester	Gallagher	Minish
Bingham	Garmatz	Mink
Blanton	Gaydos	Minshall
Boggs	Giaimo	Mize
Boland	Gibbons	Mizell
Bolling	Gilbert	Monagan
Brademas	Goldwater	Moorhead
Brasco	Gonzalez	Morgan
Bray	Goodling	Morse
Brooks	Gray	Mosher
Broomfield	Green, Pa.	Moss
Brotzman	Griffiths	Murphy, Ill.
Brown, Mich.	Gubser	Murphy, N.Y.
Brown, Ohio	Gude	Myers
Broyhill, Va.	Hamilton	Natcher
Buchanan	Hammer-schmidt	Nedzi
Burke, Mass.	Hanley	Nelsen
Burlison, Mo.	Hansen, Idaho	Nix
Burton, Calif.	Hansen, Wash.	Obey
Burton, Utah	Harrington	O'Hara
Bush	Harsha	O'Konski
Button	Harvey	Olsen
Byrne, Pa.	Hathaway	O'Neill, Mass.
Byrnes, Wis.	Hawkins	Ottinger
Camp	Hays	Patten
Carey	Hechler, W. Va.	Pelly
Carter	Heckler, Mass.	Pepper
Casey	Helstoski	Perkins
Cederberg	Hicks	Pettis
Celler	Hogan	Pickle
Chamberlain	Holifield	Pirnie
Chisholm	Hosmer	Podell
Clancy	Howard	Poff
Clausen, Don H.	Hull	Powell
Cleveland	Hungate	Preyer, N.C.
Cohelan	Hunt	Price, Ill.
Collins	Hutchinson	Pryor, Ark.
Conte	Ichord	Pucinski
Conyers	Jacobs	Purcell
Corbett	Johnson, Calif.	Quie
Corman	Jonas	Quillen
Coughlin	Jones, Ala.	Railsback
Cowger	Jones, Tenn.	Randall
Culver	Karth	Rees
Daniels, N.J.	Kastenmeier	Reid, Ill.
Davis, Ga.	Kazen	Reid, N.Y.
Davis, Wis.	Keith	Reifel
de la Garza	Kleppe	Reuss
Delaney	Kluczynski	Rhodes
Dellenback	Koch	Riegle
Denney	Kyl	Rodino
Dennis	Kyros	Rogers, Colo.
Derwinski	Landgrebe	Rooney, N.Y.
Devine	Langen	Rooney, Pa.
Dingell	Latta	Rosenthal
Donohue	Leggett	Roth
Dorn	Lloyd	Roudebush
Downing	Long, Md.	Roybal
Dulski	Lowenstein	Ruppe
Duncan	McCarthy	Ruth
Dwyer	McClory	Ryan
Edmondson	McCloskey	St Germain
	McClure	St. Onge
	McCulloch	Sandman
	Schadeberg	Steiger, Wis.
	Scherle	Stephens
	Scheuer	Stokes
	Schwengel	Stratton
	Scott	Stubblefield
	Sebelius	Sullivan
	Shipley	Symington
	Shriver	Talcott
	Sisk	Taylor
	Skubitz	Thompson, N.J.
	Slack	Thomson, Wis.
	Smith, Calif.	Tiernan
	Smith, Iowa	Udall
	Smith, N.Y.	Ullman
	Snyder	Van Deerlin
	Springer	Vanik
	Stafford	Vigorito
	Stanton	Wampler
	Steed	Watkins
	Steiger, Ariz.	Watts
		Weicker
		Whalen
		Whitehurst
		Widnall
		Williams
		Wilson, Charles H.
		Winn
		Wold
		Wolff
		Wright
		Wyatt
		Wydler
		Wylie
		Wyman
		Yates
		Yatron
		Young
		Zablocki
		Zion

NAYS—58

Abbitt	Flynt	O'Neal, Ga.
Abernethy	Fountain	Passman
Andrews, Ala.	Frey	Patman
Ashbrook	Fuqua	Poage
Bennett	Gettys	Price, Tex.
Bow	Griffin	Rarick
Brinkley	Gross	Rivers
Brock	Haley	Roberts
Burke, Fla.	Hall	Rogers, Fla.
Burleson, Tex.	Henderson	Satterfield
Caffery	Jarman	Saylor
Chappell	Jones, N.C.	Sikes
Collier	Landrum	Stuckey
Colmer	Long, La.	Teague, Tex.
Cramer	McMillan	Thompson, Ga.
Crane	Mann	Waggonner
Daniel, Va.	Martin	Watson
Dowdy	Michel	Whitten
Edwards, Ala.	Montgomery	
Flowers	Nichols	

NOT VOTING—60

Ashley	Feighan	Mollohan
Ayres	Fulton, Pa.	Morton
Blackburn	Fulton, Tenn.	Philbin
Blatnik	Green, Oreg.	Pike
Brown, Calif.	Grover	Pollock
Broyhill, N.C.	Hagan	Robison
Cabell	Halpern	Roe
Clark	Hanna	Rostenkowski
Clawson, Del	Hastings	Schneebeli
Clay	Hébert	Staggers
Conable	Horton	Taft
Cunningham	Johnson, Pa.	Teague, Calif.
Daddario	Kee	Tunney
Dawson	King	Vander Jagt
Dent	Kirwan	Waldie
Dickinson	Kuykendall	Whalley
Diggs	Lennon	White
Eckhardt	Lujan	Wiggins
Edwards, La.	Lukens	Wilson, Bob
Miller, Calif.	Evans, Colo.	Zwach

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bob Wilson.
Mr. Philbin with Mr. Grover.
Mr. White with Mr. Lujan.
Mr. Lennon with Mr. King.
Mr. Hanna with Mr. Del Clawson.
Mr. Staggers with Mr. Horton.
Mrs. Green of Oregon with Mr. Ayres.
Mr. Daddario with Mr. Morton of Maryland.
Mr. Dent with Mr. Fulton of Pennsylvania.
Mr. Feighan with Mr. Conable.
Mr. Fulton of Tennessee with Mr. Kuykendall.
Mr. Miller of California with Mr. Robison.
Mr. Ashley with Mr. Lukens.
Mr. Blatnik with Mr. Halpern.
Mr. Clark with Mr. Johnson of Pennsylvania.
Mr. Mollohan with Mr. Cunningham.
Mr. Pike with Mr. Hastings.
Mr. Rostenkowski with Mr. Vander Jagt.
Mr. Edwards of Louisiana with Mr. Dickinson.
Mr. Cabell with Mr. Blackburn.
Mr. Brown of California with Mr. Clay.
Mr. Kee with Mr. Pollock.
Mr. Kirwan with Mr. Whalley.
Mr. Tunney with Mr. Teague of California.
Mr. Waldie with Mr. Diggs.
Mr. Roe with Mr. Dawson.
Mr. Evans of Colorado with Mr. Schneebeli.
Mr. Eckhardt with Mr. Taft.

Mr. Hagan with Mr. Broyhill of North Carolina.

Mr. Wiggins with Mr. Zwach.

Messrs. JARMAN and McMILLAN changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just adopted on H.R. 514.

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

There was no objection.

FIFTEEN-PERCENT RAILROAD RETIREMENT ANNUITY INCREASE

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 892 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 892

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15733) to amend the Railroad Retirement Act of 1937 to provide a 15 per centum increase in annuities and to change the method of computing interest on investments of the railroad retirement accounts. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority members of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment recommended by the Committee on Interstate and Foreign Commerce beginning on line 22, page 7 of the bill. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

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

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

Mr. Speaker, House Resolution 892 provides an open rule with 1 hour of general debate for consideration of H.R. 15733 to amend the Railroad Retirement Act. The resolution also provides that it shall be in order to consider without the intervention of any point of order the committee amendment beginning on page 7, line 22, of the bill. Points of order were waived against this section of the bill because it would be nongermane.

The purpose of H.R. 15733 is to provide a temporary increase in railroad retirement monthly benefits of 15 percent, subject to certain offsets, and a temporary change in the method of investment of the funds in the retirement account, together with provisions for an overall study of the retirement system, and a report to the Congress 1 year prior to June 30, 1972, the expiration date of the temporary benefit increase and investment modification.

Benefit increases are restricted to a maximum of $50 for employee annuities and $25 for spouse and survivor annuities. Where the beneficiary is also in receipt of social security benefits, the 15-percent increase will be reduced by the amount of the increase received by the beneficiary under the social security amendments enacted last December, but the offset will in no case operate to reduce the increase below $10 monthly in the case of employee annuities and $5 monthly in the case of spouse and survivor annuities.

In general, persons who are receiving railroad retirement benefits alone are in greater need than are persons who are receiving both railroad retirement and social security benefits. The offset features of the legislation permit larger percentage increases for those persons receiving only railroad retirement. If it were not for this offset, it would be necessary to reduce the percentage increase of benefits in order to keep the costs of the bill from being excessive.

For the 2½-year period for which benefit increases are provided in the bill, it is estimated that the costs will total $350 million. It is estimated that the additional income to the railroad retirement account from the change in method of computing interest will provide $200 million by July 1, 1972.

It will be necessary for legislation to be enacted before July 1, 1972, to deal with the problem of the expiring benefit increases provided. The study called for by the bill would be made by the Railroad Retirement Board and should take into account the necessity of providing benefit increases on a permanent basis.

Mr. Speaker, I urge the adoption of House Resolution 892.

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

Mr. Speaker, House Resolution 892 makes in order for consideration of H.R. 15733 under an open rule with 1 hour of general debate.

The purpose of the bill is to increase by 15 percent, the retirement annuities paid to retired railroad employees. The bill also authorizes the change in the investment method of the funds in the retirement account in order to insure a higher return. Both these provisions are temporary in nature and would expire on June 30, 1972.

Benefit increases are limited to a maximum of $50 for employee annuities and $25 for spouse or survivor. If the beneficiary is also receiving social security benefits, which were increased by Congress last December, his railroad benefit increases can be reduced to as little as $10 as an offset against a double increase.

Mr. Speaker, I introduced a bill, H.R. 15494, earlier this year to amend the Railroad Retirement Act to allow the 15-percent increase. In my opinion, this piece of legislation is mandatory inasmuch as the retirement benefits of railroaders should be increased to the same level as those received by social security recipients. I strongly favor this legislation and urge its passage.

The need for the bill is stated simply: the continued rise in the cost of living.

Congress recognized this fact several months ago when it provided a 15-percent increase in social security benefits.

The bill also authorizes changes in the investment policies of the retirement fund. The bill requires that each month the Secretary of the Treasury shall determine the highest investment or yield on interest-bearing U.S. Government obligations. The railroad retirement fund shall then be assured such a return on its investments in governmental securities—the type of securities the fund is required to invest in exclusively.

Both the annuity increase and the assured investment return provisions of the bill are temporary in nature; each expires on June 30, 1972. Prior to that date, a study of the railroad retirement system is to be undertaken and completed by the Railroad Retirement Board, and a report is to be made to the Congress on or before July 1, 1971.

The estimated cost of the benefit annuity increase through June 30, 1972, is $350 million. The additional income due to the change in investment policy is estimated at $200 million.

There are no minority views. The administration opposes the bill, as evidenced by letter from the Bureau of the Budget, the Treasury Department, and two of the three members of the Railroad Retirement Board.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15733) to amend the Railroad Retirement Act of 1937 to provide a 15 per centum increase in annuities and to change the method of computing interest on investments of the railroad retirement accounts.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15733, with Mr. NIX in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes and the gentleman from Illinois (Mr. SPRINGER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, this bill was reported unanimously out of the Committee on Interstate and Foreign Commerce. It provides in general for a 15-percent increase in railroad retirement benefits, together with a modernization of the method of investment of funds held in the railroad retirement account.

There is an exception to the full 15-percent benefit increase in the case of those beneficiaries who are receiving both railroad retirement and social security benefits. The 15-percent benefit increase is reduced by the total of increases that the beneficiary received under the social security amendments that just took effect this year, but the reduced railroad retirement increase may not be less than $10 monthly in the case of an annuitant, and $5 monthly in the case of a wife or a survivor. It was necessary to put in this provision in order to keep the costs of the bill down, and by following this pattern, we were able to provide a larger overall increase for those receiving railroad retirement benefits alone, and in general these are the neediest persons.

Historically, Mr. Chairman, railroad retirement benefits and social security benefits have had parallel increases. In other words, whenever social security benefits have been raised railroad retirement benefits have also been raised by an equivalent amount. Last December, as a result of there being an actuarial surplus in the social security fund, the Congress provided a 15-percent increase in social security benefits, without a corresponding rise in taxes. This means as a practical matter that we must increase railroad retirement benefits by an equivalent amount, but the situation is complicated because, due to steadily declining payrolls, the railroad retirement system is today operating at a slight actuarial deficit, computed at approximately $23 million a year, which is a little less than one-half of 1 percent of taxable payroll.

I know I need not detail for the House the need for an increase in benefits for railroad retirees because the steady increase in cost of living in recent years has severely hurt these people who are living on relatively small fixed incomes. The problem of financing this increase, however, is a difficult one, since currently all railroad employees are paying toward their retirement benefits over 9½ percent of their monthly wages up to $650, and without any change in existing law, these rates are scheduled to increase to over 10½ percent in the future.

For this reason, Mr. Chairman, the committee has limited the duration of this benefit increase to 2 years, and has provided a new means of investment of the railroad retirement account, and has provided for a thorough study of the railroad retirement system, to be conducted by the Raiload Retirement Board, with recommendations to be made to the Congress for restructuring the entire program, with these recommendations to be made by July 1, 1971, thereby giving us a year in which to take action before these benefit increases, and new method of investment of the retirement fund, expire.

The railroad retirement fund today consists of approximately $5 billion, all of which is invested in obligations of the United States, or in obligations guaranteed as to principal and interest by the United States. The special obligations in which the fund is invested bear interest at a rate equal to the average rate paid on all long-term interest-bearing Federal obligations. The bill provides for reinvestment of the fund in obligations bearing interest at a rate equal to the highest rate payable on any long-term Government obligation outstanding at the time of investment. This constitutes a subsidy to the retirement fund, but there is nothing new about this.

When the railroad retirement system was established in 1937, the program assumed an enormous unfunded liability. All employees then on the payroll of railroads were given free credit toward retirement, up to a total of 30 years for all service performed for railroads before 1937. In addition, all persons receiving pensions from railroads were transferred over to the railroad retirement system, with the liability of the railroads transferred to the new program. This free credit and transfer of railroad pensioners has cost the system over $5 billion so far, which is being paid for primarily by taxes paid by current employees, few of whom benefit in any regard from this free credit given for pre-1937 service.

Because of this policy, the railroad retirement system has always had somewhat preferential treatment granted it in the investment of the fund. The interest rate on investment is guaranteed at at least 3 percent, which was above the rate payable on long-term Government obligations for a considerable period of time.

In 1963, due to a rise in Government interest rates, the Congress passed legislation increasing the interest rate paid on investments of the railroad retirement fund so as to equal the average interest rate payable on long-term Government obligations. This bill would change that policy, to make investments of the fund and interest at the highest rate payable at the time the investment is made.

The retirement board estimates that for the 2½-year period of benefit increases covered by the bill, the costs would equal $350 million and the increased income arising out of the change in the method of computing interest would raise $200 million, leaving a deficit of $150 million.

Obviously, the fund cannot stand such a drain for a prolonged period of time, so the legislation we have reported will force this committee during the 92d Congress to take another look at the railroad retirement system for the purposes of revising it substantially so as to provide an adequate level of benefits, together with adequate financing for the system.

The committee was unanimous in ordering the bill reported, and we urge its passage.

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

Mr. STAGGERS. I am happy to yield to the gentleman.

Mr. HALL. I appreciate the gentleman yielding to me.

In general I go along with the statements he has made. I appreciate the committee taking this action. I have here a sheaf of letters from railroad retirees asking for some sort of equitable action. I did not make my often-made point about waivers of points of order under the rule, because I thought it was important that we get this bill up for action and discussion. However, that portion of page 7 of the bill starting with line 22 that is waived because it pertains to the use of funds in an authorizing bill, in general establishes as section 9 that the retirement board itself will make this study to which the gentleman has referred.

Mr. STAGGERS. Yes, sir.

Mr. HALL. Again I have no particular fault to find with that, because if I ever knew two parallel and concomitant sources of retirement income that needed equalizing and just methods worked out, they are the railroad retirement vis-a-vis social security. However, I am really concerned with paragraph 6 of the charge to the Railroad Retirement Board and then the backdoor, the completely wide open raid on the taxpayers' treasury in the sentence that follows.

Charge No. 6 of the mandate to the Board says:

> Such other matters relating to the railroad retirement system as the Board considers necessary.

That is in addition to the five specific charges.

Then the bill itself continues:

> For purposes of such study the Board is authorized to appoint and fix the compensation of such experts and consultants as the Board deems necessary.

Now, any way you read that, Mr. Chairman, that is an open ended, backdoor raid on the Treasury, without limitation. In other words, they could appoint any number of special consultants they wanted to and they could pay them up to $500 a day for example, instead of the current unconscionable, but now usual $100 a day consultant fee if the Board in its action by a majority deemed it necessary.

Does not the distinguished gentleman feel as though we ought to put some limitation on these experts and consultants in order to get this job done?

I am asking the gentleman this question because I know the gentleman so well to believe that an unconscionable rate like this seldom comes out of the gentleman's committee and I just wondered what happened.

Mr. STAGGERS. This will have to be approved by the Appropriations Committee. Therefore, I am certain there will be a check made on it.

Mr. HALL. Mr. Chairman, if the gentleman will yield further, the gentleman well knows that that is the standard answer. However, when the Appropriations Committee comes up here they say, "Well, the Congress authorized it and we have to fund it."

This is where we get in trouble with continued mounting debts, this is the basis for spiraling inflation.

Therefore, I would express the hope that the gentleman would express a willingness to accept an amendment to at least make this in accordance with the custom and the facts as they exist at this time, and place a specific limitation thereon.

Mr. STAGGERS. I would not be adverse to accepting a specific amount. However, I cannot speak for all of the members of the committee, as the gentleman well knows. When we had this up for discussion we had faith in the Retirement Board and in the Appropriations Committee, to the effect that it would be handled judiciously and within the bounds of reason. It does not entail that much money, I am sure, but I am not adverse to accepting an amendment.

Mr. HALL. Mr. Chairman, if the gentleman will yield further, these are people who are technical experts and consultants. I am very familiar with the Rand Corp. and the Livermore Laboratories and all of the devices employed to get around paying specialists at the civil service rate. I know the difficulty of hiring specialists as consultants in quantities sufficient to get a good job done by any branch or department of Government. But I think we are actually denying our own responsibility when we leave it completely open ended, because a few short years ago we would have never thought we would be paying $75 and $100 per day, plus travel and other expenses for consultants. However, we are doing that regularly.

Mr. STAGGERS. Yes. As I said before, I would not be adverse to such an amendment. But, normally, it would seem to me that they would only appoint to the Board the necessary number to take care of the situation. They might appoint a lot less than we give them authority to appoint. If we were going to limit them, I would suggest a limit of nine members, while they might only want three. However, it is a question of whether they can do the job expeditiously because the Retirement Board is going to do the job itself.

Mr. HALL. Mr. Chairman, if the gentleman will yield further, in the gentleman's own language as contained in the bill they could hire 100 consultants. That is my point.

They—the retirement board—could hire that many and more, based upon the language contained in the bill.

Therefore, I would hope that the gentleman's statement stands, to the effect that he would accept some reasonable limitation.

Mr. STAGGERS. This is only for 1 year. We limit this, as you know. It is for 1 year that a study will be made, and a report will be furnished to the Board and to the Congress. I would be hopeful that, perhaps, they would not have to go outside their own organization. But, we did give them permission if they had to have them. However, I would hesitate as to the number to be stipulated as to whether it be three or nine as the limit beyond which they could not go. However, perhaps they will not need any, but, we give them the authority to hire necessary experts. I am hopeful they will not have to hire any. We know that they are a responsible Board, and certainly, the Appropriations Committee is going to have to take a look at it.

Mr. SPRINGER. Mr. Chairman, railroad retirement is difficult to understand and even more difficult to explain. Probably every Member has received mail suggesting changes of one kind or another in the benefit structure. The calendar of the Interstate and Foreign Commerce Committee contains bills of every description on the subject. Some would give full retirement to railroad employees once they have served 30 years in the system. Others would drop the entitlement age to 60. Whatever change you have ever heard suggested there is a bill for it somewhere. And with each suggestion the committee or the individual Members must acquaint themselves with the facts and the difficulties involved in bringing about any change in the benefit structure.

It must be pointed out that railroad retirement is much more like social security than it is like a corporate retirement system. In fact, it can be said to antedate social security. Putting the railroaders under social security only was seriously considered, but the people then in railroad employment wanted their own system. Recognizing that not every railroad employee was going to spend his entire career in railroading and might very likely earn some credits in both systems, an arrangement was written into the law which connected the two. A very complicated schedule of payments back and forth results in great gains for the railroad retirement fund and also necessitates compensating adjustments in benefits when both funds become involved.

Since railroad employment has declined it has become increasingly difficult to maintain the required actuarial balance in the fund. In 1963, the fund had become so far out of balance that a major realinement of benefits and taxes was necessary. The resulting demand upon the present employees was very heavy even though Congress tried to soften the blow by making the increase gradual. Today, an employee must put in 9.55 percent of his first $650 pay each month. A young man just starting a 30-year career in railroading would have a most satisfactory pension under this system, but it does not make room for similar upward adjustments for people already retired or just now about to.

Congress has felt that raises in social security benefits required a somewhat similar adjustment in railroad retirement benefits. A few years ago the 7-percent raise in social security resulted in a raise in railroad retirement which required increased taxes on employees to meet that 7-percent raise, and even with the increase in taxes it was not possible to do it without limitations on benefits, particularly where both systems were involved with the same retirees.

In thinking about railroad retirement it is very easy to see the desirability of expanded benefits and hard to understand that even a small change will put the fund in danger. A straight increase of 15 percent with the benefit formulas just as they are would drain the fund by an additional $132 million a year. To make up the deficit, and it must be made up, another increase in employee input of one-half of 1 percent is required. *Soon* employees would be contributing about 11 percent of salary to the fund. This the committee felt was too much.

The bill we are considering today would provide 15-percent increases for railroad retirees with certain limitations. The increases cannot be more than $50 for retirees or $25 for survivors or a spouse. Neither can they be less than $10 and $5 respectively. To cover these increases the bill changes the formula for figuring interest on the Government obligations held in the fund. It has been described as requiring the highest interest rate instead of the average rate which is now used. This is probably a dangerous oversimplification if not completely misleading. Suffice it to say that that method of handling the fund would require the Government to give it preferential treatment in the return on its holdings. That is not new. The fund was given preferential treatment at the beginning by putting a 3-percent floor on the interest rate. When this was done the interest rate did in fact drop below that percentage, and the difference had to be made up out of general funds.

The final decision of the committee was that the raise must be provided now but under a temporary arrangement. The time has come to look to a complete overhaul of the railroad retirement system. It cannot be put off. What is done here is not a satisfactory answer for the long haul. The bill, therefore, makes the change in the financing despite the protestations of the money people. Their main objection is the precedent it will set. It need not set a precedent, and we do not intend that it shall set a precedent which will affect all other trust funds. But for a short while it seemed to be about the best answer we could devise.

The gentleman from Missouri (Mr. HALL) may I say raised a very pertinent point. I had not thought about it for one simple reason, and that is that I have dealt with the Railroad Retirement Board for 20 years, and they are the most conservative Government organization that I have ever known anything about. They are tight—I want to say this frankly, and of course I will revise my remarks, but they are the tightest bunch that I know of that exist so far as money is concerned. They actually figure everything down to the penny. They are a small organization. Before us they have been the most conservative in their estimates on what they have done. Practically all of their actuarial work has been done by the railroad retirement itself. They have employed almost no outsiders.

When we had this thing up it never occurred to me that there really was going to be much if anything done by anybody on the outside. The actuarial work—and when you get into the thing, the actuarial work itself, it looks to me as though they have competent help down there to do it. But they said they thought that they

probably needed to get an independent view on this, and they might have to have somebody come in from the outside. But I do not think they have any idea of going out and hiring at random, because that is their job, it is in the actuarial field, and really what the basic problem is is a sort of sorting out really of what has happened.

They made one mistake in all the 20 years that I have been associated with them, and that was when they had this increase up a few years ago of a 2-percent payroll tax with reference to retirees, they made a mistake in the number of retirements. Everybody was agreed, we were agreed, the railroads were agreed, labor was agreed that the number of persons who would retire was only going to be 30,000 and, as a matter of fact, it turned out the number of retirements was almost 50,000. So they did miss it way off and that is the reason we had to give in with some kind of supplementary appropriation bill which we finally did get through. But this thing never occurred to me that there was going to be any outside help or any great amount of outside help.

I am usually like my friend and distinguished colleague from Missouri, very careful about this $100-a-day stuff. But that is the way I viewed it when we heard the testimony. In the Board itself, they have done all their work through the years, and I do not ever remember them ever having hired anybody outside that I knew anything about. That is the reason I think we did not do what the gentleman had in mind.

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

Mr. SPRINGER. I yield to the gentleman.

Mr. HALL. The gentleman's assurance is very pleasing, and with his statement along with the legislative record that has been made on the floor here, and with the assurance of the chairman that probably no outside help will be needed, I think this is a good record which I am delighted to hear.

I am glad to hear about the railroad retirement board itself doing the work. I know that they do. I want to recall the fact that I prefaced my remarks saying that I am in favor of this bill within equity and justice to other retirement plans that we have. I want to reemphasize that again.

The gentleman would admit with me that there is a built-in possibility here of maybe a future retirement board, if something should come to pass like a disaster this year within the time limits of this study that the committee in its wisdom has set up, where they could do almost anything.

I have had a great deal of experience in the hiring of outside help as a late personnel officer in the executive branch and in dealing with the Department of Defense today. They had not needed this much authorization when they set up a regular system of laboratories and outside consultants to avoid limitation on pay of "inhouse" types of research. I think this is not necessarily bad, and I certainly do not want to limit the function of the board.

The staff has spoken to me since my colloquy with the distinguished chairman, the gentleman from West Virginia. I see a need for this item 6 referred to as a rather open catch-all to deal with taxation within the wisdom of the board, in addition to the five specific charges that the committee has made.

All I want to do is to strike out the period and insert a comma and add "but not to exceed $100 per day, and essential expenses."

Surely, the committee could accept such a simple amendment and then we will not have an open-door raid on the Treasury. I hope it is agreeable to the gentleman, in spite of his good legislative record.

Mr. SPRINGER. I thank the gentleman for his words.

Mr. POFF. Mr. Chairman, I submitted testimony to the Committee on Interstate and Foreign Commerce in support of legislation to increase railroad retirement annuities by 15 percent. I will support the bill under debate. I will because in many parts it is a good bill and because it is the only bill likely to be passed by the Congress in this field this year.

Here are some of the good features:

First. It requires no increase in railroad retirement taxes beyond those already built into the law. Already, the rate is 9.55 percent of the first $650 of monthly compensation, and that rate will rise under the old law to 10.65 percent by 1987. Compared with the benefits available, the tax rate is already high enough, and it would be unreasonable to raise those rates further.

Second. The new law will permit the money in the retirement fund to earn bigger dividends. Under the old law, that money can be invested in Government bonds paying the average interest yield of all marketable Government securities. Under the new law, the money will be invested in Government bonds paying the highest interest rate. The additional earnings help to make it possible to avoid retirement tax increases.

Third. The new law authorizes an exhaustive study of the entire railroad retirement system. The findings of such a study hopefully will make it possible to make the changes necessary to eliminate the present operating deficit—about one-half of 1 percent of taxable payroll—and strengthen the stability of the fund for the benefit of future retirees.

Fourth. The new law will grant retirees and their survivors what is called a 15 percent increase in their benefits. The increase will be made retroactive to January 1, 1970, the same date the social security increases enacted last year became effective.

However, what concerns me about the new law is that the benefits increase will not be 15 percent across-the-board. For instance, the retiree who has earned both railroad retirement and social security retirement benefits will not get a 15 percent increase in both. On the contrary, his railroad retirement benefit increase will be reduced by the amount of his social security benefit increase. This is a modern-day form of the old dual benefits restriction which was removed from the law several years ago. I predict much unhappiness with this feature of the new law. Understandably, retirees who have earned both types of benefits will feel that they are entitled to increases authorized for both types.

One of the reasons given for the new restriction is that there are fewer railroad workers today and, thus, less money going into the retirement fund. It is true that there are fewer railroad workers. Twenty years ago, there were about 1,400,000 active railroad workers; today, there are less than 665,000. But that is not the fault of the workers, either active or retired, and active workers today are paying higher tax rates on more of their monthly wages than ever before.

I intend to vote for this bill, but I do wish that the committee could be persuaded to correct this feature of the legislation before it goes to the President's desk.

Mr. ROTH. Mr. Chairman, the legislation before us, H.R. 15773, represents the second time that this Congress has had the opportunity to work its will on railroad annuities. The current legislation provide a well-dressed 15-percent increase in railroad annuities and should not be confused with the earlier legislation—Public Law 91–215, H.R. 13300—which provided no more than for the continuance of the supplemental annuities which are paid to certain long-term railroad retirees. In no sense of the word did the previous legislation put one more penny in any annuitant's pocket.

The need for an increase in railroad annuities is obvious. Last week the 25 million people who get social security benefits had their checks increased by 15 percent and later this month they will get a second check representing the retroactive increase due them for the months of January and February. In the past increases in railroad annuities have followed the pattern set by social security. In fact it has been necessary because of the close relationship between the two programs. Under the law as it now stands some railroad annuitants have had their annuities increased by 15 percent as a result of the provision which guarantees annuitants at least 110 percent of the amount they would have been paid under the social security program.

This 110-percent guarantee is in effect an automatic increase for about 90 percent of all survivor annuitants and about 10 percent of retired worker annuities, over one-fourth of all annuitants. There is no doubt in my mind that the remaining 70 percent or so of the annuitants should also receive increases.

Although the legislation before us, H.R. 15733, has my wholehearted support, I was unhappy to read in the report of the Committee on Interstate and Foreign Commerce that the financial status of the railroad retirement system is such that a 15-percent across-the-board increase in annuities is not possible now and that the bill calls for a temporary 15-percent increase with a dollar limit on the maximum increase. This unhappiness, however, was somewhat diminished when I learned that the restrictions on the 15-percent increase would have no effect on providing every an-

nuitant with a 15-percent increase, either through the annuity alone or through the annuity and the social security increase.

It is my understanding that the $50 limit on worker annuities and the $25 limit on survivor annuites will have no effect on any annuity before June 30, 1972, when the provision would expire. It would, however, have some effect on worker annuities starting about 1973, but would never have any effect on survivor annuities. And, while these provisions would have no effect on the amounts paid to annuitants, they do serve a purpose in that they are a reminder that a change in interest rates on the investments of the railroad retirement system, as proposed by the bill, is no long-range solution to the financial problems of the program.

The long-range financial condition of the railroad retirement system is a fact of life which we must face. I would hope that the study called for by this bill would result in recommendations for a workable solution to the problem so that we will never again be faced with legislation for a temporary increase in railroad annuities. However, I do not consider this increase to be temporary in fact even if it is to be such in law. Before the increase is scheduled to expire, June 30, 1972, the recommendations called for by the bill will have been received and I believe acted on in a way to prevent any decrease in annuities and to provide whatever increases are called for in the light of the then existing conditons.

Mr. Chairman, H.R. 15733 was reported unanimously by the committee. There can be no quarrel with the need for this legislation. It is unfortunate, however, that fiscal and actuarial considerations conspire to becloud the amount of the increase and its permanence. I am convinced, though, that the committee has acted wisely in reporting a bill such as they did and I wish to commend it for the originality shown in devising a pragmatic solution to a difficult problem.

I urge adoption of the bill before us and hope that this body will follow the lead of the committee and adopt it without a dissenting voice.

Mr. MACDONALD of Massachusetts. Mr. Chairman, as one who introduced the legislation now before this body that would increase railroad retirement annuities, I rise today to urge enactment. In recent years, railroad retirees living on fixed incomes have found it increasingly difficult to make ends meet in the face of rising prices.

In the past, railroad retirement benefits have been adjusted to keep pace with social security benefits. The legislation before us today, H.R. 15733, basically provides for a 15-percent increase in annuities. This parallels the increase of 15 percent in social security benefits that went into effect at the beginning of this year.

The need for enabling railroad retirees to keep abreast of inflation is basic. They, along with other retired groups, worked long years in service to the Nation's economy—and contributed during those long years to the retirement plans that are now their sole means of support.

Those who have retired on fixed incomes—and, as we know, on incomes that are usually so restricted that they tax the ingenuity of the recipients in making ends meet—are the hardest hit by price increases. They are also, in their exposed position, the most sorely inconvenienced by the labor disputes that curtail essential services and in many cases are followed by higher prices.

Indeed, retired persons forced to live on the narrowest of financial margins tend to be the most adversely affected by the general turmoil of rapid social change. This is because they simply do not have the resources to adjust to the new conditions, much less take advantage of them.

Income more than a bare minimum for survival proves flexibility to adjust to changing conditions. This flexibility is usually taken for granted by persons still in their prime earning years, retirement day, usually thought to be a day for celebration, is all too often a day to face reality—and in too many cases it is a grim reality.

As the days of retirement grow into months and years, and as prices and essential expenditures mount while adjustments come fitfully or not at all, the retiree can justifiably question the basic equity of his plight. During his years of employment he worked both for his and his family's present and future well-being. In good faith, retirement plans were established and supported by the worker with part of his current earnings.

Secure retirement became a goal of national policy with benefits for all Americans, retired or still at work. It has been established that the economic security of all is enhanced by the economic security of those who have passed the age of active employment. Sound retirement policies not only reduce the burden on families of the retired. They also act to stabilize the purchasing power of an important segment of the economy—a fact of importance to the work force currently employed as well as to the businessmen who are the employers. Adequate retirement income also is essential to the human dignity of those who by their efforts helped lay the foundations for today's business and employment opportunities. They do not ask for anything they did not honestly earn.

Mr. Chairman, no group should be singled out to unfairly bear the burden of rising prices. The Congress cannot ignore the burden that is being placed on annuitants of the railroad retirement fund. This group, whose occupation involved hazardous and arduous work under often difficult conditions, was placed under a separate retirement system, independent from the social security plan that covered most other working Americans. After making adjustments for the one group, Congress must act in behalf of the other. To do nothing to preserve basic fairness would be to decide that unfairness should prevail.

It is notable that the equity sought here has been evident to those closest to the persons affected. In the hearings on the legislation all railway labor organizations agreed that the bill was necessary. In addition, representatives of the railroads concurred. As Mr. Lester P. Schoene, counsel for the Congress of Railway Unions, put it in his testimony:

> Not only as a matter of justice and equity should these beneficiaries receive the increase that is provided by this bill, but labor and management in the railroad industry are in accord in supporting this bill.

Mr. Chairman, our colleague on the other side of the aisle, Representative POFF, of Virginia, who also testified in behalf of the bill, observed correctly that—

> These older Americans should not have to live in constant dread of what tomorrow may not bring.

And he added:

> They should not have to come perennially to us, hat in hand, and beg to be heard.

Of course, they have been heard, and they did not have to beg to be heard—that is one of the strengths of our system. But if they, because of our inability to act, have to beg for what they have rightfully earned, then our system will have failed them.

The bill before us today has been thoroughly studied by the Commerce Committee, which has unanimously urged its enactment. I, both as a member of that committee and as a concerned American, ask that every Member of the House now give this measure their fullest consideration and support.

Mr. HARSHA. Mr. Chairman, I rise in full support of H.R. 15733, the legislation to provide a 15-percent increase in railroad retirement annuities and I urge my colleagues to immediately approve this bill.

As we are all aware, the cost of living continues to climb and retired workers depending upon fixed incomes are suffering because of this. It is particularly unfortunate because these people planned for their futures by contributing to the retirement program during their working years. Once this plan became available to them, they did all that they could to protect themselves from severe monetary problems later in life. Under the law they must depend upon the Congress to improve their benefits, when economic conditions create undue hardships for them, and I feel that it is imperative that the Congress fulfills its responsibility and approves this increase in the railroad benefits.

Unfortunately, this legislation does contain offset features, which permit those who are under only the railroad retirement program to receive larger percentage increases than those who are receiving both railroad retirement and social security benefits. The committee has reported the bill in this way because of the general feeling that those who are receiving only the benefits from the railroad retirement program are in greater need than are persons receiving benefits from two plans. The committee's report indicates that full increases cannot be given to all recipients because of the limited funds available from the railroad retirement account. It goes on to say that if it were not for the offset fea-

ture, it would be necessary to reduce the percentage increase of benefits in order to keep the costs of the bill from being excessive.

I regret that this is so, for I feel that if employees have contributed to both retirement programs, they should be able to receive benefits from both programs without being penalized and I expressed these feelings to Chairman STAGGERS during the committee's consideration of this legislation. However, in light of the need for an increase in benefits and in view of the committee's concern for maintaining the strength of the railroad retirement account, I feel that H.R. 15733 should be approved, despite the inclusion of the offset provisions.

I am pleased to see that this legislation does include the authorization for a study of the railroad retirement system and for a change in the method of investing the account funds. Both of these provisions should work to strengthen the system, by seeing that optimum returns are received for the money that the workers and the railroads contribute and by obtaining recommendations for possible revisions of the present program, to provide adequate financing for the system in the future and an adequate level of annuities for the beneficiaries.

The increases provided by this legislation are retroactive to January 1, 1970, and I feel that this is a proper and necessary feature of the bill. The retired workers have had to wait for quite a while for congressional approval of the increases in their benefits and during this time the cost of living has continued to spiral. When the social security amendments were enacted recently, they became effective on January 1 and it is only fair that the railroad workers be given equal consideration.

Again, I want to express my complete support for the immediate enactment of this legislation. It is a well-deserved and long-overdue improvement in the railroad retirement program.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

Mr. SPRINGER. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following paragraph:

"(3) The annuity computed under paragraphs (1) and (2) of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 15 per centum but not by more than $50. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $10."

SEC. 2. (a) Section 2(e) of the Railroad Retirement Act of 1937 is amended by inserting "without regard to section 3(a)(3) of this Act" after "of such individual's annuity" and by inserting "as in effect before 1970" after "or pension" and by inserting at the end thereof the following paragraph:

"The spouse's annuity computed under other provisions of this section shall be increased by 15 per centum but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5. The two preceding sentences shall not operate to increase the annuity to an amount in excess of the maximum amount of a spouse's annuity, as provided in the first sentence of this subsection."

(b) Section 2(i) of the Railroad Retirement Act of 1937 is amended by inserting "without regard to the last paragraph of such subsection (e)" after "subsections (e) and (h) of this section".

SEC. 3. Section 5 of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following subsection:

"(n) The annuity computed under other provisions of this section shall be increased by 15 per centum but not by more than $25. If the individual entitled to such annuity is also entitled to a benefit for the same month under title II of the Social Security Act, there shall be offset against the increase herein provided for any amount by which such individual's social security benefit was increased by the Social Security Amendments of 1969, but in no case shall such offset operate to reduce the increase below $5."

SEC. 4. (a) The provisions of this Act shall be effective with respect to annuities accruing for months after December 1969 and with respect to pensions due in calendar months after January 1970. For the purposes of this Act, (i) any increase in an individual's social security benefit based on recomputations other than for the correction of errors after the first adjustment, or derived from legislation enacted after the Social Security Amendments of 1969, shall be disregarded, and (ii) the increases, offsets and reductions provided for herein, shall apply before any reduction in an annuity on account of age.

(b) All pensions under section 6 of the Railroad Retirement Act of 1937, and all annuities under the Railroad Retirement Act of 1935, shall be increased by 15 per centum. Joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act and reduced by the percentage determined in accordance with the election of such annuity. All survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 in cases where the employee died before the month following the month in which the increases in annuities provided by section 1 of this Act are effective shall be increased by the same amount they would have been increased by this Act if the employee from whose joint and survivor annuity the survivor annuity is derived had been alive during all of the month in which the increases in annuities provided by section 1 of this Act are effective. All widows' and widowers' insurance annuities which began to accrue before the month following the month in which increases in annuities provided by section 1 of this Act are effective and which, in accordance with the proviso in section 5(a) or section 5(b) of the Railroad Retirement Act of 1937, are payable in the amount of the spouse's annuity to which the widow or widower was entitled shall be increased by the amount by which the spouse's annuity would have been increased by this Act had the individual from whom the annuity is derived been alive during all of the month in which the increases in annuities provided by section 1 of this Act are effective: *Provided, however,* That in cases where the individual entitled to such a pension or annuity (other than an individual who has made a joint and survivor election) is entitled also to a benefit under title II of the Social Security Act, the additional amount payable by reason of this subsection shall be reduced by the difference between the amount the individual is entitled to in such a benefit and the amount to which such individual would have been entitled had the Social Security Amendments of 1969 not been enacted: *And provided further,* That (i) the offset required by this subsection shall not operate to reduce the increase herein provided in an annuity under the Railroad Retirement Act of 1935 or a pension to an amount less than $10, and (ii) the offset required by this section shall not operate to reduce the increase herein provided in such a survivor annuity derived from a joint and survivor annuity and such a widow's or widower's annuity in an amount formerly received as a spouse's annuity to an amount less than $5.

(c) For the purposes of this Act, the amount of a social security benefit computed under the Social Security Amendments of 1967 shall be deemed to be an amount equal to 87 per centum of such benefit computed under the Social Security Amendments of 1969, and the amount by which an individual's social security benefit was increased by reason of the Social Security Amendments of 1969 shall be deemed to be 13 per centum of such individual's social security benefit as computed under the Social Security Amendments of 1969.

SEC. 5. The fifth sentence of subsection (c) of section 15 of the Railroad Retirement Act of 1937 is amended by striking out the word "average" and substituting the word "highest" and by striking out the word "all" and substituting the word "any".

SEC. 6. The said subsection (c) is further amended by inserting after the fifth sentence thereof the following: "The Secretary of the Treasury shall not any time after April 1, 1970, retain as investments for any portion of the accounts any of such special obligations bearing an interest rate less than the then current rate determined in accordance with the fifth sentence of this subsection. The special obligations issued to replace the obligations retired by the application of the preceding sentence shall have maturities fixed at not less than three years from the date of issue of such special obligations.".

SEC. 7. The said subsection (c) is further amended by striking out from the present sixth sentence thereof the phrase "preceding sentence" and inserting in lieu thereof "fifth sentence of this subsection", and by changing the word "may" to "shall" the first time it appears in the present seventh sentence of said subsection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 7, after line 8, insert the following:

"SEC. 8. (a) The first four sections of this Act, and the amendments made by such sections, shall cease to apply as of the close of June 30, 1972. Annuities accruing for months after June 30, 1972, and pensions due in calendar months after June 30, 1972, shall be computed as if the first four sections of this Act, and the amendment made thereby, had not been enacted.

"(b) The amendments made by sections 5, 6, and 7 shall cease to apply as of the close of June 30, 1972, and the computation of interest on amounts credited to the Railroad Retirement Accounts invested or reinvested after June 30, 1972, shall be made under section 15(c) of the Railroad Retire-

ment Act as if such amendments had not been enacted.

"SEC. 9. The Railroad Retirement Board is authorized and directed to make a study of the railroad retirement system and its financing for the purpose of recommending to the Congress on or before July 1, 1971, changes in such system to provide adequate levels of benefits thereunder on an actuarially sound basis. Such study shall take into account (1) the necessity of providing benefit increases in such system commensurate with past and future benefit increases under the Social Security Act, (2) the necessity of revising benefits under that system to meet increases in the cost of living, (3) the question of the adequacy of levels of benefits for the various classes of beneficiaries covered under the system, (4) the possibility of restructuring benefits under that Act to transfer coverage of various classes of beneficiaries to the social security system, (5) the necessary changes to provide for a continuation of the increased level of benefits provided under the amendments made by the first four sections of this Act, and (6) such other matters relating to the railroad retirement system as the Board considers necessary. For purposes of such study, the Board is authorized to appoint and fix the compensation of such experts and consultants as the Board deems necessary."

AMENDMENT OFFERED BY MR. HALL TO COMMITTEE AMENDMENT

Mr. HALL. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. HALL to the committee amendment:

Page 8, line 18, strike out the period, insert a comma and add "but not to exceed $100 per day, and essential expenses."

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. HALL. Mr. Chairman, I will not belabor the subject. I have discussed it adequately in the markup, in the reading, and the general debate on the bill.

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

Mr. HALL. I yield to the distinguished gentleman from West Virginia.

Mr. STAGGERS. I have no objection to the amendment, and, on behalf of others who are present and myself, I accept it.

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

Mr. HALL. I yield to the gentleman from Illinois.

Mr. SPRINGER. I have no objection to the amendment.

Mr. HALL. I thank the gentlemen.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri to the Committee amendment.

The amendment to the Committee amendment was agreed to.

The Committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NIX, 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. 15733) to amend the Railroad Retirement Act of 1937 to provide a 15 per centum increase in annuities and to change the method of computing interest on investments of the railroad retirement accounts, pursuant to House Resolution 892, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

The question is on the amendment.

The amendment was agreed to.

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

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

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

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

Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 379, nays 0, not voting 51, as follows:

[Roll No. 67]

YEAS—379

Abbitt	Button	Esch
Abernethy	Byrne, Pa.	Eshleman
Adair	Byrnes, Wis.	Evins, Tenn.
Adams	Caffery	Fallon
Addabbo	Camp	Farbstein
Albert	Carey	Fascell
Alexander	Carter	Findley
Anderson, Calif.	Casey	Fish
	Cederberg	Fisher
Anderson, Ill.	Celler	Flood
Anderson, Tenn.	Chamberlain	Flowers
	Chappell	Flynt
Andrews, Ala.	Chisholm	Foley
Andrews, N. Dak.	Clancy	Ford, Gerald R.
	Clausen, Don H.	Ford, William D.
Annunzio	Cleveland	Foreman
Arends	Cohelan	Fountain
Ashbrook	Collier	Fraser
Aspinall	Collins	Frelinghuysen
Baring	Colmer	Frey
Barrett	Conte	Friedel
Beall, Md.	Conyers	Fulton, Tenn.
Belcher	Corbett	Fuqua
Bell, Calif.	Corman	Galifianakis
Bennett	Coughlin	Gallagher
Berry	Cowger	Garmatz
Betts	Cramer	Gaydos
Bevill	Crane	Giaimo
Biaggi	Culver	Gibbons
Biester	Daniel, Va.	Gilbert
Bingham	Daniels, N.J.	Goldwater
Blanton	Davis, Ga.	Gonzalez
Blatnik	Davis, Wis.	Goodling
Boggs	de la Garza	Gray
Boland	Delaney	Green, Pa.
Bolling	Dellenback	Griffin
Bow	Denney	Griffiths
Brademas	Dennis	Gross
Brasco	Derwinski	Grover
Bray	Devine	Gubser
Brinkley	Dingell	Gude
Brock	Donohue	Haley
Brooks	Dorn	Hall
Broomfield	Dowdy	Hamilton
Brotzman	Downing	Hammer-schmidt
Brown, Mich.	Dulski	Hanley
Brown, Ohio	Duncan	Hansen, Idaho
Broyhill, Va.	Dwyer	Hansen, Wash.
Buchanan	Eckhardt	Harrington
Burke, Fla.	Edmondson	Harsha
Burke, Mass.	Edwards, Ala.	Harvey
Burleson, Tex.	Edwards, Calif.	Hathaway
Burlison, Mo.	Edwards, La.	Hawkins
Burton, Calif.	Eilberg	Hays
Burton, Utah	Erlenborn	Hechler, W. Va.
Bush	Mink	St. Onge
Heckler, Mass.	Minshall	Sandman
Helstoski	Mize	Satterfield
Henderson	Mizell	Saylor
Hicks	Monagan	Schadeberg
Hogan	Montgomery	Scherle
Holifield	Moorhead	Scheuer
Hosmer	Morgan	Schwengel
Howard	Morse	Scott
Hull	Mosher	Sebelius
Hungate	Moss	Shipley
Hunt	Murphy, Ill.	Shriver
Hutchinson	Murphy, N.Y.	Sikes
Ichord	Myers	Sisk
Jacobs	Natcher	Skubitz
Jarman	Nedzi	Slack
Johnson, Calif.	Nelsen	Smith, Calif.
Jonas	Nichols	Smith, Iowa
Jones, Ala.	Nix	Smith, N.Y.
Jones, N.C.	Obey	Snyder
Jones, Tenn.	O'Hara	Springer
Karth	O'Konski	Stafford
Kastenmeier	Olsen	Staggers
Kazen	O'Neal, Ga.	Stanton
Kee	O'Neill, Mass.	Steed
Keith	Ottinger	Steiger, Ariz.
King	Passman	Steiger, Wis.
Kleppe	Patman	Stephens
Kluczynski	Patten	Stokes
Koch	Pelly	Stratton
Kyl	Pepper	Stubblefield
Kyros	Perkins	Stuckey
Landgrebe	Pettis	Sullivan
Landrum	Pickle	Symington
Langen	Pike	Talcott
Latta	Pirnie	Taylor
Leggett	Poage	Teague, Tex.
Lloyd	Podell	Thompson, Ga.
Long, La.	Poff	Thompson, N.J.
Long, Md.	Powell	Thomson, Wis.
Lowenstein	Preyer, N.C.	Tiernan
McCarthy	Price, Ill.	Udall
McClory	Price, Tex.	Ullman
McCloskey	Pryor, Ark.	Van Deerlin
McClure	Pucinski	Vanik
McCulloch	Purcell	Vigorito
McDade	Quie	Waggonner
McDonald, Mich.	Quillen	Wampler
	Railsback	Watkins
McEwen	Randall	Watson
McFall	Rarick	Watts
McKneally	Rees	Weicker
McMillan	Reid, Ill.	Whalen
Macdonald, Mass.	Reid, N.Y.	Whitehurst
	Reifel	Widnall
MacGregor	Reuss	Williams
Madden	Rhodes	Wilson, Charles H.
Mahon	Riegle	
Mailliard	Rivers	Winn
Mann	Roberts	Wold
Marsh	Robison	Wolff
Martin	Rodino	Wright
Mathias	Rogers, Colo.	Wyatt
Matsunaga	Rogers, Fla.	Wydler
May	Rooney, N.Y.	Wylie
Mayne	Rooney, Pa.	Wyman
Meeds	Rosenthal	Yates
Melcher	Roth	Yatron
Meskill	Roudebush	Young
Michel	Roybal	Zablocki
Mikva	Ruppe	Zion
Miller, Ohio	Ruth	Zwach
Mills	Ryan	
Minish	St Germain	

NAYS—0

NOT VOTING—51

Ashley	Feighan	Mollohan
Ayres	Fulton, Pa.	Morton
Blackburn	Gettys	Philbin
Brown, Calif.	Green, Oreg.	Pollock
Broyhill, N.C.	Hagan	Roe
Cabell	Halpern	Rostenkowski
Clark	Hanna	Schneebeli
Clawson, Del	Hastings	Taft
Clay	Hébert	Teague, Calif.
Conable	Horton	Tunney
Cunningham	Johnson, Pa.	Vander Jagt
Daddario	Kirwan	Waldie
Dawson	Kuykendall	Whalley
Dent	Lennon	White
Dickinson	Lujan	Whitten
Diggs	Lukens	Wiggins
Evans, Colo.	Miller, Calif.	Wilson, Bob

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bob Wilson.
Mr. Philbin with Mr. Hastings.
Mr. White with Mr. Whalley.
Mr. Lennon with Mr. Schneebeli.
Mrs. Green of Oregon with Mr. Ayres.

Mr. Daddario with Mr. Conable.
Mr. Dent with Mr. Horton.
Mr. Feighan with Mr. Johnson of Pennsylvania.
Mr. Miller of California with Mr. Teague of California.
Mr. Ashley with Mr. Lukens.
Mr. Gettys with Mr. Blackburn.
Mr. Clark with Mr. Fulton of Pennsylvania.
Mr. Mollohan with Mr. Cunningham.
Mr. Rostenkowski with Mr. Morton.
Mr. Hanna with Mr. Del Clawson.
Mr. Cabell with Mr. Broyhill of North Carolina.
Mr. Brown of California with Mr. Clay.
Mr. Tunney with Mr. Pollock.
Mr. Kirwan with Mr. Lujan.
Mr. Waldie with Mr. Diggs.
Mr. Roe with Mr. Halpern.
Mr. Evans of Colorado with Mr. Kuykendall.
Mr. Hogan with Mr. Dickinson.
Mr. Whitten with Mr. Taft.
Mr. Vander Jagt with Mr. Wiggins.

The result of the vote was announced as above recorded.

The doors were opened.

The title was amended so as to read: "A bill to amend the Railroad Retirement Act of 1937 to provide a temporary 15 per centum increase in annuities, to change for a temporary period the method of computing interest on investments of the railroad retirement accounts, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. PRICE of Illinois). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. ALBERT. Mr. Speaker, I take this time in order to announce a change in the legislative program. After conferring with the distinguished chairman of the Committee on Ways and Means and the distinguished chairman of the Committee on Rules, it appears that the committee will not report today the rule on H.R. 16311, the Family Assistance Act of 1970. This bill will probably come up on Wednesday of next week.

I would like also to advise Members, after conferring with the minority leader, the distinguished chairman of the Committee on Rules, the distinguished chairman and the ranking member of the Committee on Interstate and Foreign Commerce, that a rule will be sought on House Joint Resolution 1124, concerning the railway labor dispute, tomorrow, and if the rule is granted tomorrow morning, that rule will be called up tomorrow afternoon; a procedure which will require a two-thirds vote.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished majority leader yield?

Mr. ALBERT. I am glad to yield to the gentleman from Michigan.

Mr. GERALD R. FORD. In other words, the family assistance legislation will be programed next week—if I understood correctly, probably Wednesday. Does that mean on Thursday, the last bill listed on the whip notice will come up on Thursday of this week?

Mr. ALBERT. Probably it will be considered on Thursday. We do not know of anything else that might come up this week. Of course, committees are working on other matters that are rather urgent, as the gentleman knows.

Mr. GERALD R. FORD. I thank the majority leader.

RESOLUTION ADOPTED BY THE GEORGIA JAYCEES—PROPER PERSPECTIVE ON SCHOOLS

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

Mr. BRINKLEY. Mr. Speaker, it is with particular pride and appreciation that I commend the attached resolution to the attention of our colleagues within the Congress. Adopted by strongly motivated young men of action, the Georgia Jaycees, the resolution addresses itself with unerring accuracy and logic to a proper perspective on schools.

On January 26, 1970, in this Chamber, I proposed a "people to people" educational campaign to enlist aid from outside the South in behalf of equity for southern school systems. The help we sought and still seek is for equal treatment within the Union of States toward preventing the transformation of our schools into factories for social experiment and reform, through busing quotas and other devices; quality education and scholastic achievement alone, we say, must remain the sole justification for institutions of classroom learning. Schools must never be permitted to become vehicles for racial balance and quotas.

Our public school systems were born by local men and women and nurtured in crossroads, hamlets, communities, and cities of this great country. These schools were extensions of the personalities, backgrounds, and standards of the founders and great personal sacrifices have been made to sustain the little red schoolhouse in critical times. Compassionate men and women have often volunteered their services when money was unavailable for salaries.

The property owner has borne the major financial burden to educate children of all races by payment of ad valorem taxes. Trustees come from among the most enlightened and concerned citizens of the area.

No wonder local people are stung and angered by wanton judicial takeover of their own institutions.

To understand people is to know that schools are dear to the hearts of parents. Here are where their most precious possessions live and learn, grow and make lifelong friends. Neighborhood schools are community centers, recreational centers, places of friendly competition, and sources of local pride.

People will rake and scrape and finance to the hilt in order to move into a neighborhood served by a good school. Their children's protection, security, welfare, peace, chance for advancement, and happiness are real and earnest issues.

Many of us in public office believe in local control over local affairs. In this regard, we share the conviction that freedom of choice is a constitutional prerogative, and people power—when informed and united—does not go unnoticed on the political scene.

The resolution follows:

RESOLUTION

Whereas, the Federal Judiciary has recently set forth the concept that a mathematical racial balance of faculty and students must be maintained in the public school systems; and

Whereas, this concept will force school systems to classify and locate people according to their race in order to achieve a mythical racial balance; and

Whereas, it is strongly felt that the bussing of children to areas in which they do not live for the purpose of obtaining a mathematical racial balance is a denial of individual dignity, worth and equality, and is a denial of the constitutional rights of these children to the freedom of choice of attending a school in close proximity to their homes; and

Whereas, we believe that the implementation of a mathematical racial balance of teachers and pupils will be utterly chaotic and will prevent the continued growth of quality education; and

Whereas, school children and teachers, by federal courts orders, are being regimented and moved about like pawns on a chessboard to achieve an unlawful objective in direct contradiction to the position taken by the United States Congress and the President of the United States.

Now, therefore, The Georgia Jaycees does unanimously oppose the bussing and transferring of school children and teachers for the purpose of accomplishing a mathematical racial balance of faculty and students in the public school systems and deplore the absolute disregard of the Federal Judiciary in creating a chaotic condition by requiring mass transfers of teachers to the detriment of a quality education being obtained by innocent children.

Be it further resolved that the Georgia Jaycees favors an unitary school system accomplished by the children having a freedom of choice of attending schools in close proximity to their homes without regard to achieving mathematical balances based on race, creed or color.

Be it further resolved that the Georgia Jaycees does urge the President of the United States, the United States Congress, and the Supreme Court of the United States to take necessary actions and steps to seek a reversal of this concept as set forth in a decision of the Fifth Circuit Appeals Court of the United States and that copies of this Resolution be forwarded to them requesting their immediate attention and action in order to avoid the continued disruption and a complete breakdown of the public education system.

Be it still further resolved, that we, as Georgia Jaycees, individually and collectively, encourage and endorse a Jaycee "People to People" effort designed to inform and alert the Citizenry of America of this great threat to our public schools, asking that individuals and groups call upon their elected officials to

defeat and reverse the disastrous edicts and directives under which our schools are presently governed.

FRANK I. BAILEY,
President, Georgia Jaycees.

Attest:

W. WHEELER BRYAN,
Legal Counsel, Georgia Jaycees.

Motion duly made, seconded and adopted this the 22 day of February, 1970.

BANK OF HEFLIN, ALA., HELPS TO EASE TIGHT-MONEY SITUATION

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

Mr. NICHOLS. Mr. Speaker, mail that I receive from my constituents indicates that inflation and the ever-rising cost of living is one of the issues which concern them most. Those who are hit hardest are the small farmer, the blue collar worker, and the elderly who must live on a fixed income. Everyone, however, is affected to some degree by inflation.

We have heard a great deal lately about what the Federal Reserve Bank and other Government agencies are attempting to do about the high interest rates. Large banks such as Irving Trust and Bank of America received nationwide headlines when they recently reduced their prime interest rates by one-half of 1 percent.

Other banks are also helping to ease the tight-money situation. One of these is the Bank of Heflin, located in Heflin, Ala. The president of the bank, Mr. Robert Pope, recently wrote to me to explain the actions of the bank in reducing the interest rates. His letter expresses the feelings of a great many banking executives in my congressional district and I would like to insert it in the RECORD at this point:

BANK OF HEFLIN,
Heflin, Ala., April 2, 1970.

HON. BILL NICHOLS,
Congressman, Fourth Congressional District of Alabama, Longworth Building, Washington, D.C.

DEAR BILL: I deeply appreciate your call concerning the actions taken by our bank last Thursday, March 26th, when we announced that effective April 1st, the prime rate would be reduced from 8% to 7½%.

This bank as you know, is located in a predominantly agricultural area, some 85 miles west of Atlanta and 80 miles east of Birmingham. The city of Heflin has a population of approximately 3,000 and this bank has total assets of $14 million. We, like most banks, have enjoyed a period of growth in the last decade, particularly within the past six years. Since 1964, for example, our total resources have increased from $4 million to $14 million. Our customers have made this possible and we realize they are the reason for our existence. And even though we are situated in a sparsely populated area and our bank is small by most standards, we are as proud of our customers as Irving Trust Co. and Bank of America are of theirs. We, therefore, attempt to orient all of our activities around them and to serve them as best we can.

It is my opinion that the public has been subjected to unjustifiable and exorbitant rates since last June. It was then that the Federal Reserve Board clamped down on the nation's money supply and major banks increased their prime rate to 8½%. The objective for these actions was to fight inflation and cause some restraint on spending. But now, almost 10 months thereafter, we still have these high interest rates, high prices, credit squeeze on mortgage funds, tight money and inflation. And there have been many victims of the policies of restraint other than bank borrowers—municipalities, private corporations and the Federal Government have paid interest rates that have soared to historic highs. Economic theory advanced by some of the nation's greatest economists and particularly the President's Council of Economic Advisors, has not worked. Ask the saver, the pensioner and those on fixed incomes. I think they will agree.

It was gratifying to me last month, as I'm sure it was to millions throughout this nation, when several banks across the country cut their rates to 8%; but disappointing in that their actions were not followed by some of the major banks at that time. Now, however, since Irving Trust Co. of New York and Bank of America have announced their roll back, it is hoped that their lead will be promptly followed. This cutback is a step in the right direction, but does not go quite far enough.

There have been indications recently of a significant trend for the lowering of rates. Firstly, money market rates have been dropping for almost two months, secondly, the Federal fund rate has dropped below the prime rate and; thirdly, loan participation and commercial paper have decreased considerably. This reveals a trend but even though these rates have been reduced, the inflationary psychology which has been so prevalent in our economy for so long, has not really been defeated.

We considered all of these factors and arrived at the conclusion that a reduction in interest rates was necessary to relieve credit tensions and to encourage and to promote local retail service and building trade.

I would only hope that the action taken by several banks, ours included, throughout this country would cause other banks to follow our lead and to influence and encourage the members of the Federal Reserve Board to roll back their discount rates to relieve the tight money situation that plagues this nation. As bankers should be more responsive to the needs of customers, so should the Board be more sensitive to the needs of the bankers; and in the defense of the overwhelming majority of bankers, we are caught in the middle between government policies and customer demands and more than often, find it almost impossible to meet the needs of both. If the Board fails in its duty to respond to a reduction in the discount rate, then the banks must take the initiative to ease the credit squeeze. When and if this action should be taken, it is my opinion that there would be less inflation and more economic stability.

Now I feel that there will be bankers who will say we were unwise to take this action. They will argue that the cut was premature—and others will say—extraordinary demand for credit will continue to outweigh a restrictive supply of funds—others that since the money supply is lower than ever a reduction does not make sense—still others will say that the economy might not yet be ready for the cut, but I feel that it was in the public interest to roll back the rates and we did because we felt that it was the right thing to do.

Thank you for giving me the opportunity for an expression of my views and with kindest personal regards to you and your staff, I remain.

Respectfully yours,

ROBERT R. POPE,
President.

INFLATIONARY IMPACT OF PIPELINE RATE INCREASE

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

Mr. THOMPSON of Georgia. Mr. Speaker, I want to call to the attention of Congress what I regard as a serious gap in the current efforts to curb inflation—the apparent inability of the Federal Power Commission to keep natural gas rates subject to its jurisdiction from spiraling out of control.

One of the most important tools the Federal Government can use in the fight against inflation is its power to enforce the Federal regulatory agencies that have the responsibility to fix utility prices. As we all know, the Federal Power Commission regulates the prices at which natural gas producers and natural gas pipelines sell gas for resale in interstate commerce. Perhaps more than any other single Federal agency, the FPC could play a direct and important role in curbing inflationary increases in prices for a basic utility service—natural gas. The major impact that the Federal Power Commission could have on inflation is illustrated by the fact that, in the budget proposed for the Commission for fiscal 1971, it was indicated that there were pending before the Commission rate increases in excess of $400 million as of the end of November 1969, or more than three times the amount pending in the year before. These rate filings represent increases in the cost of gas to local utilities that sell gas at retail to consumers. The cost of gas purchased from interstate pipelines is by far the largest single item of cost to a local gas utility. Keeping the interstate gas cost at noninflationary levels—which only the FPC has the power to do—is therefore of manifest importance to the battle against inflation.

The lack of effective gas rate regulation in recent months is a major blow to the Nation's gas consumers. In the State of Georgia, the Southern Natural Gas Co., which is subject only to FPC regulation, supplies gas to municipal and public utility distributors operating in that State. Southern now has pending before the Commission two proposals which together have increased its rates by some $40 million a year. Of this increase, about $20 million is being borne by Georgia consumers. Compared with rates previously allowed, this is about a 25-percent hike overall—in some instances the new rates being 50 to 60 percent higher than the previous rates.

When the Southern rate increase was filed, the Commission indicated it would attempt to expedite the proceeding; now, more than 6 months after the filing, the full amount of this increase is being collected *subject to refund. In fact,* the Commission Staff has stated that it will be July 1 before it can produce its evidence in the case; they say they do not have the manpower to do better. Both the Commission's lawyer and the examiner assigned to the case have strenuously urged Southern's customers to enter into

"settlement" negotiations as the only means of expediting a decision in the case. In other words, the suggestion is made that the consumer's right to just and reasonable rates should be decided by compromise—not on the basis of the pipeline's cost of doing business, but on the basis of the pipeline's bargaining power. The pipeline can collect the higher prices until the case is concluded, and knows that the Commission is not going to decide the case within the foreseeable future. Accordingly, it is under no compulsion to settle the rate dispute, unless it can do so on its terms. If the customers agree to settle for higher rates to avoid a full-blown hearing, they have no real hope that the Commission will ever order a rate reduction if the pipeline's actual earnings prove to be excessive.

Perhaps because of the large number of pipeline rate increase cases, the Commission apparently has all but abandoned the continuing pipeline rate surveillance program described in its annual reports to Congress. The Commission staff is thus making no real effort to find out what returns the regulated pipelines are actually earning. If they are, that vital information is not made public. In fact, in the Southern case, it has ruled that the rate of return which the pipeline had actually earned on its interstate sales is not even relevant.

Nor is the Southern case the only one in point. There are, or have been during the past few years, substantial gas pipeline rate increases which affect every major metropolitan area in the United States. Very sizable increases have been approved already as the result of "settlements, with no evidence of what return the companies are actually receiving for jurisdictional sales.

Now, how did all of this come about? In part, of course, the rate-increase activity at the FPC reflects cost inflation. No one quarrels with the fact that a regulated industry should be able to recover the costs legitimately incurred by it in providing service to the public. Thus, some rate increases could be anticipated. It is the noncost elements that are inflationary—the excessive profits and "adjustments" to book costs—that make it impossible to even tell what rate of return a pipeline is earning on its regulated sales.

However, requests for higher and higher profits seem almost to be encouraged by the Commission. In speech after speech, the Commission has practically invited the companies subject to its jurisdiction to apply for rate increases. One of the first appearances the new Chairman of the Commission made after his appointment last June was at the public utility section of the American Bar Association. There he spoke informally on rate of return "problems" of utilities, not consumers. He spoke in October to the American Gas Association financial forum, when he again emphasized the need for rates of return high enough to "attract" capital from more profitable—and riskier—ventures. In fact, in his first press conference, the Chairman of the Commission was quoted as saying:

> We had the Kennedy round of tariff negotiations . . . What we need now is a "Nassikas round" of gas rate increases.

Hopefully he was misquoted. However, it seems clear that instead of speaking out on the need to curb inflation, the Commissioners have done exactly the opposite. The companies subject to their jurisdiction have been quick to respond—with record high rate filings.

Most recently, one of the Commissioners has even suggested—in a speech—that the producer prices which it has been attempting to regulate ever since 1954 should be free of Federal price regulation because of the alleged failure of regulated rates to avoid a gas shortage. This statement was made in spite of the almost incredible fact that, as yet, regulated rates for producers have never been made effective. Regulated rates for gas producers have instead been the subject of almost continuous litigation, stays, and postponement after postponement of Commission action.

Moreover, one would think that, if in fact a shortage of gas has developed—because of burgeoning demand—there would be more reason for close scrutiny of the price to be paid. Not one speech has been made on the importance of keeping the gas rates at a level which will provide reasonable but not inflationary profits to producers and pipelines, or the need for even closer scrutiny if a gas shortage is developing.

As all of you know, the oil and gas producers and gas pipelines regulated by the FPC have their own spokesmen and their own press. They do not need a government assistance program to present their case to the public. It is the consumers who need a government voice to speak in their behalf.

Now I do not mean to suggest that the rate increases upon rate increases pancaking before the FPC are all because of the Commissioners' speeches. The natural gas companies—the major oil producers and natural gas pipelines—are the ones seeking the higher rates and placing them into effect. The Commission has been, and is, understaffed, and this may be the fault of those who must appropriate money for its proper enforcement. For fiscal 1970, the agency's total budget was $16,400,000, which was supplemented to meet Government pay increases. The budget proposed for 1971 is $18,450,000, which represents a small increase that probably will be absorbed in large part by additional pay increases. Given the huge impact of FPC actions on inflationary increases in gas rates, some upward revision of this budget may be required. At a time when an all-out effort is being made to control inflation, the expenditure of essential funds to control unnecessary increases in utility rates would be money well spent. But simply appropriating more money is not the answer. Some assurance is needed that these expenditures will be used to adjudicate the rate proceedings now piling up, and which have priority under the act. If its own staff is not large enough to handle the job, perhaps the Commission should be encouraged to supplement it with consultants or other temporary help.

Whatever budget is provided, however, the Commission should be required to spend it in deciding the pending rate cases, and not on speeches that deliberately undercut the work done by its staff.

Application of the jawbone technique to encourage rate increase filings, rather than to discourage them, is not only detrimental to the war on inflation, but is also detrimental to the quasi-judicial functions of the Commission. An administrative agency must not only be free of bias or prejudgment, but must appear to be so. It would be a scandal if a judge made a speech about a case or an issue while it was being litigated in his court. The same thing holds true for Commissioners. Regulation by press release is also totally unfair to parties with issues before the Commission, or on appeal from a Commission order. A Commission decision can be appealed if some party feels he is being denied his rights on the basis of the law and the record of the proceeding. A speech, on the other hand, cannot be appealed or rebutted. When a new commission takes over and makes speeches undercutting orders of its predecessors, some of which may be on appeal, the practice becomes especially tawdry.

The appropriate place for the Commissioners to speak is in their decisions. With the huge backlog of matters pending before the FPC, they have plenty of opportunity to express themselves fully on all important issues and they will render a public service by doing so.

In line with these remarks, I am urging that those reviewing the proposed budget for the FPC seriously consider increasing that budget to the extent necessary to permit the Commission to adjudicate pipeline rate cases pending before it in a timely fashion. I would also urge, however, that any appropriation for that Commission contain the clear admonition that it be utilized in deciding pending rate cases and not on speeches that simply beget additional problems. The small amount of money needed to maximize the effectiveness of regulation can pay a healthy return in the battle against inflation and will be recovered several times over by means of the lower rates to gas consumers.

POSSIBILITY OF NEW OUTBREAK OF KOREAN WAR LOOMS LARGER

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

Mr. BRAY. Mr. Speaker, attempts by the administration to damp the flames of war in Southeast Asia and remove American presence from that area are possibly being offset right at this moment by plans in North Korea for a resumption of the Korean war.

At the very worst, there seems a distinct possibility that North Korea will mount all-out attack on South Korea within the next 12 months. At the very least, there will in all probability be another "incident" such as the *Pueblo* or the EC–121, and such an incident may come at any time and possibly within the next 2 weeks.

It was a grim coincidence, if it can be called a coincidence, that was overlooked by all but a few, that just 1 week before President Nixon's November 3, 1969, speech outlining plans for orderly withdrawal of the United States from Vietnam, North Korea gave open and ominous indication of its determination to force Communist rule upon the south.

I refer to the October 27, 1969, advertisement in the New York Times, for the first volume of the biography of North Korean Premier Kim Il-Sung. The ad was headlined "Korea Has Produced the Hero of 20th Century."

The book was published by a Japanese press; I have a copy of volume I and have carefully gone over it, as well as the chapter headings in the books still to come. Chapter 5 in volume III is entitled "We Can Never Hand Down a Divided Fatherland to Our Posterity," and chapter 7 in the same volume refers to "The Great Leader of the 40 Million Korean People." This is even more indicative; you get 40 million Koreans only by counting both North and South. This 40 million figure is used constantly by the North Korean press and radio.

The frequency of border incidents have been climbing in number and intensity, and I have noticed over the past few months that broadcasts from Pyongyang radio are more and more hysterical and frantic in their denunciation of United States and South Korean "provocations" along the border. North Korea has already humbled the United States by the *Pueblo* and the EC–121 incident. It seems more than likely that the next strike will be along the border, in the form of a major attack against a U.S. outpost, with possible kidnaping of American soldiers to be charged with "espionage" and "violations of the armistice agreement" or some other trumped-up charge.

We cannot afford to overlook traditional Korean cultural concepts in trying to predict what North Korea will do, and to me these are the most significant and threatening of all. I spent from October 1945 to July 1946 in Korea as deputy property custodian of the U.S. military government, and I can assure this House that these concepts are not to be treated lightly.

In Korea, the 60th birthday, the hwangap, traditionally marks the end of an individual's first life cycle and the beginning of his second. To a Korean, his life goals should be achieved by age 60. Kim Il-Sung will be 60 in 1971; the time to fulfill his life goal is rapidly running out.

It was no surprise, for example, to the South Koreans, that the attack on the EC–121 came on April 15, 1969—April 15 is Kim's birthday. To the Western mind, this method of policy planning may be irrational, but it is irrational for the West to ignore its meaning in the Orient.

Probably, on balance, the recent hijacking of the Japan Air Lines plane by a group of radical Japanese students embarrassed North Korea, and was more of a nuisance than anything else. It drew attention to them at a time when they were probably preparing some other form of international crisis.

I find it significant that Peking's policy toward North Korea is now changing, in place of the formerly rather tense atmosphere. Red Chinese Premier Chou En Lai is now in North Korea. Technically, North Korea supports Russia in its border quarrel with China, but South Korean intelligence believes Kim's preference is for Peking.

We must remember one very important and never-changing fact. No matter how much Peking and Moscow may differ they still want the United States pushed completely off the Asian continent. They see us preparing to withdraw from Vietnam and they just might want to gamble with completing the job, by giving Kim Il-Sung free rein to try it in Korea.

One thing is for certain: Kim is a vain and egocentric dictator, who by and large has been ignored and left out of the Communist pantheon of leaders and demigods. Those both in this country and abroad who are pressuring President Nixon for immediate withdrawal from all foreign commitments had better consider the implications of what could happen, and what it will mean, if Kim tries to overshadow the memory of Ho Chi Minh.

SELF-APPOINTED CULTURAL CZAR GEORGE PLIMPTON

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

Mr. SCHERLE. Mr. Speaker, early this morning a member of my staff received a long distance telephone call from Mr. George Plimpton, of New York City. Mr. Plimpton, self-appointed cultural czar of the fully federally subsidized American literary anthology program, was obviously emotionally upset regarding my recent disclosure that his government program was doling out $750 for seven letter poems, to wit—lighght—that do not even spell a word. Plimpton shouted obscenities and vulgarities at my staff aide and repeated through the telephone conversation that my office will pay the consequences for criticizing his program. He refused to reveal the nature or circumstances of this threat. Mr. Speaker, this shocking irrational behavior by a Federal grantee graphically illustrates the arrogrance that permeates the whole arts and humanities program. If Mr. Plimpton believes for one minute that he is going to harass my office and shout threats he is in for a big surprise. It is quite obvious that socialite George Plimpton, the critic, cannot stand valid criticism of his misdirected program. If he cannot stand the heat that he generated then he should resign.

I include herewith an excerpt from one of my recent newsletters:

DON'T LET GEORGE DO IT

A cultural clique, financed by the American taxpayers, is operating clandestinely within so-called literary circles of this nation. The scheme was initiated in 1966 when the National Foundation for the Arts appropriated $55,000 to New York society playboy and jet-setter George Plimpton to play the role of this country's cultural czar. With his dictatorial power, Plimpton is allowed to hand-pick his own panel of judges who in turn select the prose and poetry that are published in the federally subsidized anthologies that he edits. At the present time two volumes have been published and a third is due this June. Plimpton's literary lackies are currently editing volume IV. So far his preposterous program has tapped the public treasury for $200,000.

A glance at the Plimpton operation reveals a selfish and sinister pattern of support to the same individuals and magazines. The chosen few receive $500 to $1000 for their work by a mere nod of George's handmaidens. In the first volume published, six of the twenty-nine winning poems came from the magazine *Paris Review*, which to no one's surprise is edited by none other than our George Plimpton. The double-dealing does not stop here. Two authoresses for example, one in poetry and one in prose, each were awarded top prizes in both Volumes I and II, and then appointed by Plimpton as judges for what will appear in Volume III. Continuing this bizarre shake-down, Plimpton also appointed his pal and protege, Philip Roth, author of the shocking and scarlet novel entitled *Portnoy's Complaint* as a judge.

The pompous panel's selections, which are spiced with four-letter words, range from the ridiculous titles of "A–15" and "A–18", which were written by the same author in successive years, to the sublime essay praising the black militant Malcolm X. However, the topper of this tomfoolery is the awarding of a prize to Aram Saroyan, son of the noted American author William Saroyan. His "masterpiece" may well be recorded in history as the most expensive printed material ever thrust upon the unsuspecting American taxpayer. The poem consists of only seven letters! For the edification of those who are footing the bill, I reprint the entire poem which resulted in the expenditure of $750 in federal funds, or $107.14 per letter. The poem:

"lighght"

My staff contacted Plimpton in New York to inquire whether there had been a typographical error, because it does not even spell a word. He eagerly assured us that there was no misprint—That was the poem!

In the soon-to-be-released Volume III, the "culturally deprived" American public will be exposed to the literary talents of part-time U.S. Senator and full-time poet Gene McCarthy. McCarthy tapped the federal treasury for $500 for poetically describing his Indiana campaign experiences during his ill-fated 1968 quest for the Presidency. Generous George coincidentally was an avowed and avid supporter of McCarthy's bid.

This brazen project is merely *one* element of the National Foundation of the Arts and Humanities. Congress will consider additional legislation shortly which will increase the funding for the Foundation 100 per cent to $40 million. Unfortunately, the Education and Labor Committee has granted approval to this tampering of the federal till over my lone negative vote. Ironically at the same time there is no money in the school milk program for next year, Veterans' burial benefits are being reduced, and the agricultural conservation program will be cut back, all because of a tight budget. These programs and many others are of a much higher priority of national interest, so the Congress should not approve the full $40 million earmarked for this program. I will therefore offer an amendment to reduce the spending level of that agency below last year.

Culture should not be spoon-fed to an effete elite at the expense of the general public. There exists in this country a thing called free enterprise. If seven-letter poems turn on some people, then they should pay for the joy rather than force our hard-working taxpayers to subsidize their cultural taste.

PRESIDENT'S COMMISSION ON OBSCENITY AND PORNOGRAPHY

The SPEAKER pro tempore (Mr. PRICE of Illinois). Under a previous order of the House, the Chair recognizes the gentleman from Wisconsin (Mr. SCHADEBERG) for 15 minutes.

Mr. SCHADEBERG. Mr. Speaker, I received yesterday a most disturbing letter from the Reverend Morton A. Hill, a member of the Presidential Commission on Obscenity and Pornography. Reverend Hill has, as you may know, taken a vocal dissenting role in the direction which the Commission appears to be taking. He has often pointed out that the congressional mandate requires the Commission to make its study relevant to dealing effectively with traffic in obscenity and pornography, and that the Commission has been taking the tack of determining whether or not pornography should be prohibited.

In the recent letter from Reverend Hill, he relates a specific example of how the Commission has been avoiding its mandate, and how it has, instead, been engaging in determinations as to the validity of obscene material. He states that the Commission recently hired 21 men between the ages of 21 and 23, 17 of whom were unmarried, and paid them $100 each to expose themselves to what was termed "hard, hard core" pornography for a period of 90 minutes a day for 2 weeks. These young men were then fitted with devices designed to measure the seminal emission which resulted from a viewing of the smut. Under permission of the House, previously granted, I will place the letter from Father Hill in the CONGRESSIONAL RECORD at this point, along with two newspaper reports concerning his dissent, and the reaction of William B. Lockhart, dean of the University of Minnesota Law School, Chairman of the Commission.

NEW YORK, N.Y.,
April 2, 1970.

HON. HENRY C. SCHADEBERG,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN SCHADEBERG: At a meeting of the Presidential Commission on Obscenity and Pornography Tuesday, March 24, I learned for the first time that the Commission has been deliberately exposing students to pornography as part of its research into "effects." I believe this is barbaric.

William B. Lockhart, chairman of this Commission, testified before the Senate Appropriations Committee last June (Senate Hearings; Treasury, Post Office and Executive Office Appropriations; H.R. 11582, 91st Congress, First Session, Fiscal Year 1970, page 1052): "The Commission, although recognizing the importance of the experimental procedure, *cannot arbitrarily expose some people to pornography* and observe the later consequences . . ." (my emphasis)

At the Commission meeting, a Dr. Reifler, under contract to the Commission, reported on an experiment sanctioned by Dr. Lockhart.

Twenty-one young men between the ages of 21 and 23, seventeen of whom were unmarried, were paid $100 each to expose themselves for two weeks, for a period of 90 minutes a day, to what was termed "hard, hard core" pornography. We were informed that they were then fitted with devices to measure seminal emission.

I asked Dr. Lockhart, during the report, if he were aware that such an experiment is in violation of Divine Law, and why he had not consulted with the three clergymen-commissioners (who represent the three major faiths) before such an experiment was undertaken. He replied that such consultation would have been "unconstitutional."

I felt obliged to leave this meeting, and will not be bound by the "confidentiality" or secrecy, which Dr. Lockhart requested at the beginning of the Commission's life, and to which the Commission assented.

Dr. Lockhart's reply to a reporter who questioned him about the aforementioned experiment, was, "We are simply making the study on pornography Congress asked us to make." (*New York Daily News*, March 31, 1970)

I have been refused funds for the preparation of a minority report, and Commissioner W. C. Link and I have conducted public hearings throughout the country, at our own expense, because until March 24 the Commission had consistently refused to conduct public hearings. They will, because of our efforts, now conduct two public hearings.

May I vigorously suggest that a Congressional investigation be initiated to probe the workings of this Commission, on which the American public has spent some $1,900,000. The Congress, the public, and I might add, many of the Commission members themselves, should surely be apprised of what is transpiring here.

Respectfully,
REV. MORTON A. HILL, S.J.

[From the New York News, Mar. 31, 1970]

PRIEST CALLS SMUT EXPERIMENT A DIRTY SHAME

(By Judson Hand)

A crusading Jesuit from Manhattan and a law school dean who teaches Sunday school in Minnesota clashed yesterday over an experiment paid for by the taxpayers, to determine how 21 young men react to 90-minute doses of hard-core pornography.

The Rev. Morton A. Hill, S.J., called the experiment "barbaric," and demanded that Congress investigate the Presidential Commission on Obscenity and Pornography, which conducted it.

Hill is a member of the 18-member commission and William B. Lockhart, dean of the University of Minnesota Law School, his antagonist, is its chairman.

CONDUCTED BY EXPERTS

"We are simply making the study on pornography Congress asked us to make," said Lockhart, reached in his office at the university. "Our experiments, including the one Father Hill mentioned, are conducted by experts in various fields. Further than that, I will not comment at this time."

Lockhart said he attends United Church of Christ services regularly and teaches Sunday school to 100 adults.

Hill, who is president of the Manhattan-based Morality in Media, Inc., charged that, in the experiment, young men were being "used like animals in a laboratory."

TWENTY-ONE PAID $100

He said that in the study, which was sanctioned by Lockhart, 21 young men, four of whom were married, were paid $100 to expose themselves for 90 minutes a day during a two-week period to "hard, hard-core pornography. The volunteers were then fitted with mechanical devices to measure seminal emission, he said.

Hill said he first learned of the experiment in a closed meeting of the commission last week.

$1.5 MILLION BUDGET

"These experiments violate the law of God, divine law," he said, and he asked why he and two other clergymen on the panel had not been consulted about the experiment. He said Lockhart replied that such consultation might have been "unconstitutional." Hill stormed out of the meeting.

The outspoken Jesuit has also complained that no detailed written report has been furnished to him on how the commission is spending its budget of more than $1.5 million and he has demanded that the commission hire a writer to help prepare a "minority report" representing the views of commission members to take a harder line on possible action to curb dirty literature.

The minority report, Hill said, would be based on evidence collected by him and the Rev. W. C. Link, a Tennessee Methodist, who conducted their own public hearings in eight cities throughout the nation.

"Some of the reports on these hearings run up to 500 pages," he said, "and they show how overwhelmingly the public is opposed to the waves of pornography that are sweeping the nation."

[From the New York Post, Mar. 30, 1970]

EROTIC EXPERIMENT

(By Jack Anderson)

WASHINGTON.—A fiery Jesuit priest stalked out of a secret meeting of the President's Pornography Commission last week because it conducted erotic experiments on students without consulting the three theologian members.

The Rev. Morton A. Hill, a crusading smut-buster from New York City, exploded with righteous wrath as he listened behind closed doors to a discussion of the effects of pornography on 21 male volunteers.

His outburst came in the middle of a vivid description of the bizarre, 14-day sex study. A researcher told how obscene pictures and other pornography had been parceled out for 90 minutes each day to the students who got $100 for their cooperation.

As the details became more bawdy, Father Hill could contain his outrage no longer. Scowling darkly, he demanded why the three theologians on the Commission hadn't been consulted about the experiments.

"These experiments violate the law of God, Divine Law!" thundered the white-haired priest, looking for all the world like an angry, blue-eyed Biblical prophet.

Commission Chairman William B. Lockhart, dean of the Minnesota University Law School, snapped back that for all he knew, such consultation might have been "unconstitutional."

Father Hill continued to boil as the researcher went on to explain explicitly how sexual stimulation of the students was measured.

Finally, he could take no more and stormed out of the meeting without another word.

Note: The Jesuit has consistently protested that the 18-man Commission should hold public hearings. He and a clergyman colleague, the Rev. W. C. Link, a Nashville Methodist, have held nine of their own public hearings around the country.

Father Hill also complained to this column that no detailed written notice had been furnished him on how the Commission is spending its whopping $1.5 million budget. A $200,000 national survey on smut was undertaken, for example, without consulting in depth with Father Hill's legal panel or Dr. Link's smut traffic panel.

A Commission spokesman confirmed that the meetings are held in secret but said two meetings will be open to the public in May in the wake of the clergyman's demands. The Commission's work deals, in part, with the Danish attitude toward pornography as it might apply to the United States. In Denmark, public exhibits of sexual intercourse are permitted.

Mr. Speaker, I resent most deeply this attitude of the Commission; its human experimentation; and what I consider to be an inappropriate use of Federal funds. The Commission was formed by Congress

to help us deal with the problems posed by the wide distribution of pornographic materials. It was not given the mandate to make guinea pigs of young men, or to tell us whether or not pornography should be made legal. As a matter of public policy, and as a result of the thousands and thousands of letters received by Members of Congress from irate recipients of unwanted smut material, we formed the Commission to assist us in getting the job done.

The direction which the Commission is taking, contrary to the expressed intention of Congress, is leading us down a road which society is not prepared to go and should not go. Funds were not appropriated for the purpose of spending $2,100 on individual experimentation. The question which we asked the Commission to assist us in answering was not what the physical reaction is, but how to protect the integrity of the individual and his moral standards and his sense of decency from the onslaught of this corrupting material that is offensive and damaging to the spiritual nature of man. As evidenced by the hundreds of bills which have been introduced to limit the dissemination of obscene materials, Congress has never asked the Commission to deal with natural effects pornography has on the physical man. Rather we asked the Commission to assist us in proposing constitutional means by which the material can be kept from persons who are revolted by the concept of beastial sexuality in man as conveyed in hard core pornography.

The time has come for Congress to demand that the Commission cease acting in secrecy. That it stop spending our tax dollars in experiments based on the premise that man is nothing more than a bundle of animal reactions and that physical effects of pornography are the basic consideration for attempts to measure its effects.

Congress and the rest of the Nation is awaiting the final report of the Commission before it continues with legislation. I know personally the extent of expectation from having solicited support from the administration, the FBI, and the Justice Department, as well as other Members of Congress, for my legislation to create a select committee to study organized crime's involvement in pornographic enterprises. In all of the official responses, reference was made to the existence of the committee and to the need to wait until the final report. But, if the final report does not follow the mandate of Congress, then 1 year of necessary study and $1.9 million will have been wasted.

When I requested information from the Commission into what it was doing to recommend legislation designed to halt the growing influence of organized crime in the production and dissemination of obscene materials, I was told that a study was being made. As to what had been done so far, I could receive no information.

Subsequently, a young man who works for a criminal institute of one of the Nation's leading law schools, and who is under contract from the Commission to study crime's involvement, contacted me and set up an appointment. However, I learned that the Commission's work in this area was most sketchy, and that my personal investigation had turned up more information than he had obtained.

Thus, at the same time that an important aspect of the problem, curtailment of organized crimes interest in the dissemination of pornographic materials, was yielding little, the Commission is spending unauthorized funds to subject persons to this material to determine what if any physical effects it has on them.

I have evidence of another instance where the mandate of Congress has not been followed. In Los Angeles the Commission has been conducting a survey into the effects of pornography. To get participants in the experiment, they have placed advertisements on the walls of the pornography shops in the region, stating that anyone desiring to be of assistance should contact the Commission. Can you imagine what sort of assistance could be gathered from the frequenters of pornography shops to help a Commission which is funded to recommend ways to control the industry?

Can you imagine the type of legal entanglements involved if we should base legislation on the kind of experimentation carried out by this Commission? I can well imagine the constitutional test which will be recommended to replace the current test as applied by the Supreme Court. Based upon the experiments, a specific piece of sexually oriented material will be allowed or prohibited according to the physical reaction of a "reasonable" man. In each of our courts there could be a professional "pornography tester" to whom the material will be shown. This individual would be equipped with scientific devices. If his reaction to the pornography reaches a certain level, then it must be declared illegal. If the reaction falls below the level determined to be the legal community standards, the material will be legal.

Of course, it might be hard to find a reasonable man to use as the tester. What about the effects upon adolescents? Should we not also subject the material to the youth of our land? We could establish a board of examiners, or perhaps use the same procedures for selecting a jury and establish a review board of one's peers who would be tested.

And what about testing women? I am sure members of the Women's Liberation would protest the discriminatory practice of testing only men and insist the women be represented on the board of examiners.

This would, of course, not be the final answer. A purveyor of obscene materials might well take a case to the Supreme Court stating that the reaction standards as applied in a specific community were unconstitutional and must be overturned.

I apologize to the Chair for engaging in this discussion, which might seem out of order in these Halls of Congress, where language of a higher order is the rule but I am impelled in the name of common decency to alert my colleagues to the seriousness of the problem.

We have appropriated nearly $2 million for the work of this Commission. It is evident to me that the Commission has abandoned all pretexts of following congressional mandate. In my estimation the Commission has misused the funds provided it in several instances and certainly is not approaching the problem of pornography from a reasonable or morally acceptable premise.

The Nation is anxiously awaiting the report of the Commission. I sincerely hope Congress will not be assaulted with a report which it never intended to be produced. Unfortunately much influence will be gained by the views of the Commission in its final report and it will be extremely difficult to draw the controversy into context.

Mr. Speaker, Congress must make its own investigation. This House should report out my House resolution which would set up a special committee of the House to look into organized crime's relationship to this entirely offensive industry. Only if we know what the business is can we hope to control it. Like Mark Twain's remark about the weather—"Everyone talks about the weather but no one does anything about it." So with this smut industry. Everyone talks about it, but Congress, the only body representing the people equipped to do anything about it, does nothing.

I agree with the Reverend Hill with whom I had several conversations, the Commission on Pornography, funded by this body to the tune of $1.9 million of this Nation's taxpayers' dollars has not carried on its work in keeping with the intent of Congress. Let's face the issue ourselves. Face it squarely and do something about it. Our constituents not only deserve it, they have a right to expect it.

Mr. ROUDEBUSH. Mr. Speaker, I feel that it is my duty to join my colleagues in participating in this special order of business.

It was shocking for me to learn that members of the Presidential Commission on Obscenity and Pornography have been deliberately exposing students to pornography as part of its research.

The American taxpayer has paid nearly $2 million for this committee to study the problem of pornography and obscenity.

What has the committee done?

Twenty-one young men between the ages of 21 and 23, 17 of whom were unmarried, were paid $100 each to expose themselves for 2 weeks for a period of 90 minutes a day to what was termed "hard, hard core" pornography.

One committee member, the Reverend Morton A. Hill, of New York City, called on the Commission to hold hearings throughout the country in order to find out the grass roots thinking about pornography.

The committee refused Father Hill's request.

But Father Hill is not a person who can be turned away easily.

He carried on hearings of his own.

He visited city after city.

He held hearings in Indianapolis.

He held hearings here in Washington.

I testified before Father Hill.

Father Hill is to be commended for his

work. But the Commission has refused to give Father Hill funds to file a minority report.

I associate myself with the remarks of Congressman SCHADEBERG and join him in asking for a full congressional investigation of the actions of this Commission.

A LANDMARK DECISION BARRING INDIGNITIES AGAINST AN AMERICAN BECAUSE OF HIS NATIONAL ORIGIN

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Illinois (Mr. PUCINSKI) is recognized for 30 minutes.

Mr. PUCINSKI. Mr. Speaker, the Equal Employment Opportunities Commission has handed down a landmark decision which, in my judgment, may finally put an end to those scurrilous ethnic jokes in America and the insidious practice of harassing Americans because of their ethnic origin.

In an unprecedented decision against an employer, the Commission held in case No. CL 68-12-431 EU, that "the Commission cannot regard the tolerance of ridicule of national origin as either a common or allowable condition of employment."

This case came about when the complainant, who came to this country from Poland after World War II, filed a complaint with the Commission that his rights under the Civil Rights Act had been violated by constant harassment by his fellow employees because of his national origin.

The Commission held that reasonable cause exists to believe that the employer violated title VII of the Civil Rights Act by permitting shop harassment of the foreign-born employee because of his national origin.

The Commission held further that:

> Tolerance by first-line supervisors of ridicule of national origin cannot be condoned as common or allowable condition of employment.

Mr. Speaker, I shall place in the RECORD at the conclusion of my remarks the entire Equal Employment Opportunities Commission decision.

This particular worker began working in the crane repair shop at the employer's steel mill in 1957 as a production employee.

The Commission's report states that beginning in 1965, eight years after he began working for this employer, he allegedly was subjected to continuous harassment from fellow employees.

He became a butt of "Polish" jokes among other shop employees who laced other witticisms with vulgar "Polish" names and generally derogatory remarks about his ancestry.

The Commission found other harassment directed at this immigrant worker took physical form in the following actions:

Driving a vehicle at him only to stop short of striking him.

Throwing objects at his feet.

Lighting welding torches near his face.

Assigning him jobs beyond his physical capacity.

Requiring him to sweep out the plant while other employees rested.

In their defense, the employees involved denied the charges of harassment, asserting that this immigrant worker himself had called fellow workers vulgar names and had repeatedly accused them of mistreating him. Even one of the charging party's own witnesses testified that he was hypersensitive.

The telling of "Polish" jokes was common in the shop, the witness related, and other employees of Polish descent took such jests good-naturedly.

But the Commission held that—

> The Commission cannot regard the tolerance of ridicule of national origin as either a common or allowable condition of employment. The charging party's fellow employees knew or should have known of his sensitivity, and the telling of such "jokes" constitutes disparate treatment violative of the Act, assuming the remarks were made with the implied consent, approval or knowledge of Respondent employer.

The Commission stated further:

> In light of the evidence presented here, we deem it reasonable to conclude that Respondent employer, at least on the primary level of supervision, was aware of the complained of incidents. We are aware of the fact that at least two of the employees accused by Charging Party of harassing him were of Polish descent themselves. We find it unremarkable that persons of Polish descent have engaged in discrimination against a foreign-born fellow employee.

Mr. Speaker, I believe that this is a landmark decision. It is historic and will affect millions of Americans in their day-to-day conduct with their fellow Americans.

Through this decision, the Commission restores dignity to all Americans regardless of their ethnic background and, surely, through this decision, the Commission serves official notice as a national policy that discrimination because of national origin will not be tolerated any more than racial or religious discrimination.

Moreover, the Equal Employment Opportunities Commission brings into the open what many of us have known for many years privately, that, tragically, there exists in this country ethnic discrimination.

It continues to be a serious social problem, just as serious as the problem of racial discrimination or religious discrimination, but unfortunately a good deal more difficult to detect or prove.

I know well the indignities and the suffering of this brave person who brought these charges before the Commission.

The Commission cannot divulge the name of the individual or his employer because under Commission rules an effort must be made to try to mediate this situation and abate the practices which the Commission found illegal. If the practices cannot be abated, then the Commission can ask the U.S. Attorney General to seek appropriate action under title VII against the employer which includes injunctive relief against the practices and indignities suffered by this worker.

Mr. Speaker, there are millions of immigrants who have come to this country since the turn of the century including Italians, Poles, Slovaks, Irish, Germans, and various others who have found their way into the plants of America.

They know well, perhaps better than most of us, the indignities that they frequently suffered if they had a strange or difficult name, or if they did not speak the language.

These are the people who built America.

These are the people who made this country what it is today.

These are the people who through their hard work brought to this continent a concept of human dignity.

But we know the indignities that they suffered; the ridicule; the exploration, because they were "foreigners."

As Thoreau once said, they suffered those indignities in "silent desperation" because there was nowhere to turn for help.

And the fact remains that even at this late date, it is not uncommon to hear an American of Italian descent referred to as a "Wop," an American of Irish descent referred to as a "Mick," an American of Polish descent referred to as a "Polack," an American of German descent referred to as a "Kraut," and all the other appellations and undignified and shameful names that we call many of our fellow Americans.

Even Bob Hope continues to call Americans of Polish descent "Polacks" when he should know better.

So I believe this decision is most important and most timely, because this decision focuses at once on the undeniable fact that America, this great, wonderful, beautiful Republic of ours, is an inspiring mosaic, a mosaic of people of many nationalities, many religions, many races.

This historic decision brings into the open the ethnicity of America.

I hope that this decision will be carefully followed and carefully read. I hope this decision will help focus a national policy on the fact that we Americans cannot condone the indignity of ridiculing anyone—whether it is because of his race, his religion and now because of his national origin. For indeed it has been this diversity of national origin, brought to the shores of America from many lands, which has made this country so different from all other social orders.

We have people who have come here from all over the world, bringing with them the richness of their cultures, bringing with them the richness of their spirit, bringing with them the richness of a belief in the dignity and the humanity of man.

My subcommittee has been holding hearings for some months on the Ethnic Studies Center bill. During these hearings we discovered the tremendous amount of Americans who know practically nothing about their fellow Americans, people who work together and live together in the same communities and yet know so little about each other.

We have also found in these hearings that one of the great problems of America today is that while this Nation is a

magnificent mosaic of many people, many cultures, many religions, many races, there has been over the years a consistent effort to homogenize us into a single monolith. This may very well be the source of all the trouble in this country today.

We have tried to deny our ethnicity.

We have tried to deny the fact that each of us is just a little bit different from each other.

We have tried to conceal the fact that we are a nation of many nationalities, many cultures.

We have tried to deny the fact that there is no conflict between a person being proud of his national origin, his ethnic background, and yet be a proud, loyal, patriotic, dedicated American, loyal to the principles of the United States.

And so again I say, Mr. Speaker, that this is a landmark decision because it brings out into the open something that so many of our American citizens have suffered in silent desperation.

The person who brought this action was a brave individual—and I wish I had his name, I wish I could identify him, this person who was brave enough to go before the Equal Employment Opportunities Commission and file a formal complaint and seek redress in the orderly process of a quasi-judicial proceeding, rather than to seek his redress through violence or anarchy.

And I say that so long as the Equal Employment Opportunities Commission moves in this direction, recognizing that all Americans, regardless of their race, color, creed, sex, or age, are entitled to equal treatment as dignified citizens, we are strengthening the fibers of this Republic.

I suggest that this decision has brought to the Equal Employment Opportunities Commission a new dimension of respect for, indeed, the Commission has recognized the strength of America lies in her ethnic groups and they are entitled to equal rights as citizens.

The strength of America is not in belittling each other and not harassing those of us who are less fortunate than others, but rather through bringing about a mutual respect.

I should think that this decision would be of particular concern and interest to the large body of Latin Americans who today are our largest "forgotten minority" in this country and who continue at the bottom of the economic ladder because of language difficulties and because of unfamiliarity with American customs. People who have come here and want to work and make their contribution for the growth of this great Republic, but who find themselves the butts of scurrilous jokes and the kind of antagonisms and the kind of indignities that this one worker had to suffer in this plant.

I am sure that across this country there are millions of our senior citizens who remember well the indignities they suffered in a factory simply because they did not speak the language or because they had a name that was difficult to pronounce.

I hope the decision of this Commission will spread across this land and I hope all Americans will realize we are a Nation committed to the equality and the dignity of our fellow men. Just because a man is of foreign extraction, or because he has a name that is difficult to pronounce, or because perhaps he does not speak the language as well as the rest of us, is no reason to believe he is any less an American. He is entitled to the full protection of the laws of our land and he is entitled to share in the glory of this Republic.

I think the Equal Employment Opportunities Commission in this landmark decision has given a whole new dimension and meaning to the glory of being an American.

The Commission's decision follows:

CASE NO. CL 68-12-431EU

Reasonable cause exists to believe that employer violated Title VII by permitting shop harassment of foreign-born employee because of national origin. Tolerance by first-line supervisors of ridicule of national origin cannot be condoned as common or allowable condition of employment. 108.12

Reasonable cause does not exist to believe that union violated Title VII just because shop steward was among those engaged in unlawful harassment. Steward was acting in capacity as employee, not as steward, when discriminatory acts occurred. Moreover, union took steps to end harassment, including grievance in charging party's behalf. 108.21

Charging party, who was born in Poland, entered the U.S. in 1956 and began work in the crane-repair shop at the employer's steel mill in 1957. As a production employee, he was represented by the union, whose membership elected him steward for the crane shop.

Beginning in 1965, he allegedly was subjected to continuous harassment from fellow employees. He became a butt of "Polish" jokes among other shop employees, including those also of Polish descent, who laced other witticisms with vulgar "Polish" names and generally derogatory remarks about his ancestry. Other harassment directed at charging party took physical form:

Driving a vehicle at him only to stop short of striking him.

Throwing objects at his feet.

Lighting welding torches near his face.

Assigning him jobs beyond his physical capacity.

Requiring him to sweep out the plant while other employees rested.

In their defense, the employees involved denied the charges of harassment, asserting that charging party himself had called fellow workers vulgar names and had repeatedly accused them of mistreating him. Even one of charging party's own witnesses testified that he was hypersensitive. The telling of "Polish" jokes was common in the shop, the witness related, and other employees of Polish descent took such jests good-naturedly.

"The Commission cannot regard the tolerance of ridicule of national origin as either a common or allowable condition of employment. Charging Party's fellow employees knew or should have known of his sensitivity, and the telling of such 'jokes' constitutes disparate treatment violative of the Act, assuming the remarks were made with the implied consent, approval or knowledge of Respondent Employer.

"In light of the evidence presented here, we deem it reasonable to conclude that Respondent Employer, at least on the primary level of supervision, was aware of the complained of incidents. We are aware of the fact that at least two of the employees accused by Charging Party of harassing him were of Polish descent themselves. We find it unremarkable that persons of Polish descent have engaged in discrimination against a foreign-born fellow employee."

OIL IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CONTE) is recognized for 10 minutes.

Mr. CONTE. Mr. Speaker, a year ago I introduced the identical bills, H.R. 10799, H.R. 10811, and H.R. 10801, which would gradually phase out the inequitable oil import quota system over a 10-year period. See the CONGRESSIONAL RECORD, volume 115, part 8, page 11085. In an earlier speech I explained in detail the reasons why this program, so costly to the consumer, should be eliminated. See the CONGRESSIONAL RECORD, volume 115, part 6, page 8184. These bills are cosponsored by 53 of my colleagues.

I am pleased to announce that I have today reintroduced this legislation with an additional 12 cosponsors. They are: Mr. BRADEMAS, Mr. CAREY, Mr. CLAY, Mr. FASCELL, Mr. FRASER, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HOWARD, Mr. O'HARA, Mr. REES, Mr. SCHEUER, and Mr. STOKES.

This increased support, Mr. Speaker, reflects the growing concern over the President's failure to take any action to reduce the effects of the quotas which, his own Cabinet Task Force on Oil Import Control has found, cost the American consumer $5 billion annually.

The quota system, which I have opposed since its creation in 1959, has created a special hardship in New England and the Northeast. But as serious as the problem facing our region is, Mr. Speaker, we must recognize that this is no mere regional problem.

If there were any doubts about this in the past, surely there can be none today. The recent Canadian decision, so detrimental to consumers in the northern Midwest, dramatically illustrates this. And the even more recent decision by most of our major oil companies to raise gasoline prices by a cent a gallon across the Nation provides further proof that we are facing a national problem. I might add at this point that the gasoline price hike is further indication of the majors' arrogant disregard for the needs of the consumers. It also suggests to me that an investigation is warranted by the Antitrust Division of the Justice Department.

Because I am convinced, as I have said, that we are facing a truly national problem, and also because of my disappointment at the failure of the executive branch to exercise the initiative needed to bring about reform, I have concluded that there is an urgent need for much greater congressional leadership on this issue.

I am pleased to announce today, Mr. Speaker, that my good friend and colleague, HENRY S. REUSS, of Wisconsin, has agreed to join me in calling for the creation of an informal bipartisan House Committee on Oil Import Reform. This

committee will serve as a clearinghouse for the gathering and dissemination of its members' views in this field, and provide a useful forum for considering the views of task force members, other Federal officials, and members of the public and industry. Ultimately, this committee should serve as a vehicle to make known our united position to the public, the Congress, and the executive departments. Mr. REUSS and I have today sent out a letter soliciting the membership of our colleagues.

I should also acknowledge, at this point, the growing voices for oil import reform that are being heard in the other body from regions beyond the Northeast. I want to commend Senator HARTKE and his colleagues who last week introduced Senate Resolution 382, which calls upon the President to implement the majority report of his Cabinet task force. Mr. REUSS and I have today announced our intention to introduce a similar resolution in the House, in a letter seeking the support of all our House colleagues.

I hope that all those who care about justice for the consumer will join me in these efforts.

PAY RAISE FOR POLICE AND FIREMEN NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, last session when I introduced legislation authorizing a pay raise for policemen and firemen in the District of Columbia, I felt this pay raise was warranted and very much needed in light of the increased cost of living in this area.

Now, after the passage of several months and hearings before Subcommittee No. 3 of the House District of Columbia Committee on this and similar proposals, I am more than ever convinced that prompt action by Congress is of the utmost importance if we are not to lose many experienced and valuable firemen and policemen. The steadily increasing cost of living has stretched their budgets thin. Because they have families to support, homes to keep up, and taxes to pay, these men are being forced to choose between their dedication to law enforcement or firefighting and their consideration for their families. In view of the vital areas of public service with which we are dealing, it is doubly important that competent personnel be encouraged to seek these positions and to remain in them by providing them a decent living.

I am pointing out these facts as I expect that in the very near future, the Members of the House will be called upon to vote on this pay raise legislation.

During the several months since the introduction of my bill and those similar, and the action taken thereon by the Senate and by the House District Committee, I have been made aware that certain inequities exist in the pay scales contained in these bills. In testimony by representatives of the policemen and firemen's associations and in discussions with and letters from individual policemen and firemen, several specific inequities have been clearly brought to light.

In response I have today introduced a clean bill which corrects these problem areas in the pay scales and will result, I believe, in fair treatment of firemen and policemen of all ranks, which is essential if we are to maintain good morale within those departments and to provide the necessary incentives for promotion and acceptance of increased responsibility.

In the interest of fairness, the Congress should speedily enact the District of Columbia firemen and policemen pay raise bill.

SUPREME COURT PERMITS STATES TO END WELFARE CADILLAC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 20 minutes.

Mr. RARICK. Mr. Speaker, yesterday those of us who have labored long and hard to return sanity, through Americanism, to our Government were heartened by yet another milestone of progress.

I refer to the historic decision of the Supreme Court in the Maryland welfare case of Dandridge against Williams, in which the Court by a 5 to 3 majority conceded that the Congress, not the Court, has the constitutional power to legislate. Thus, we have seen returned to the people, through their duly elected Representatives in this body, the power to place a limit on the extent to which the nonproductive minority of our citizens have the power to continue to "pick the pocket" of the great majority of working Americans.

I use the word "power" advisedly, because the Court has terminated the left-wing poppycock that there is some vague constitutional right to this type of thievery. What is left is the power of the people to set a top limit, consistent with human decency, to the extent to which they will be required to subsidize the shiftless—but far from voteless—reliefers and such exploiters of the underprivileged as the National Welfare Rights Organization.

For the benefit of Members and others who have occasion to peruse the RECORD, I include in my remarks the 18 pages of decision by which the American people advanced one step forward to constitutional government. I also include the 42 pages of whining dissent from the welfare bloc on the Supreme Court.

[In the Supreme Court of the United States, No. 131.—October Term, 1969]

EDMUND P. DANDRIDGE, JR., ET AL., APPELLANTS, *v.* LINDA WILLIAMS, ET AL., ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

(April 6, 1970)

Mr. Justice Stewart delivered the opinion of the Court.

This case involves the validity of a method used by Maryland, in the administration of an aspect of its public welfare program, to reconcile the demands of its needy citizens with the finite resources available to meet those demands. Like every other State in the Union, Maryland participates in the federal Aid to Families with Dependent Children (AFDC) program, 42 U.S.C. § 601 *et seq.*, which originated with the Social Security Act of 1935.[1] Under this jointly financed program, a State computes the so-called "standard of need" of each eligible family unit within its borders. See generally, *Rosado* v. *Wyman, ante.* Some States provide that every family shall receive grants sufficient to meet fully the determined standard of need. Other States provide that each family unit shall receive a percentage of the determined need. Still others provide grants to most families in full accord with the ascertained standard of need, but impose an upper limit on the total amount of money any one family unit may receive. Maryland, through administrative adoption of a "maximum grant regulation," has followed this last course. This suit was brought by several AFDC recipients to enjoin the application of the Maryland maximum grant regulation on the ground that it is in conflict with the Social Security Act of 1935 and with the Equal Protection Clause of the Fourteenth Amendment. A three-judge District Court, convened pursuant to 28 U.S.C. § 2281, held that the Maryland regulation violates the Equal Protection Clause. 297 F. Supp. 450. This direct appeal followed, 28 U.S.C. § 1253, and we noted probable jurisdiction, 396 U.S. 811.

The operation of the Maryland welfare system is not complex. By statute[2] the State participates in the AFDC program. It computes the standard of need for each eligible family based on the number of children in the family and the circumstances under which the family lives. In general, the standard of need increases with each additional person in the household, but the increments become proportionately smaller.[3] The regulation here in issue imposes upon the grant that any single family may receive an upper limit of $250 per month in certain counties including Baltimore City, and of $240 per month elsewhere in the State.[4] The appellees

[1] 49 Stat. 620, as amended, 42 U.S.C. §§ 301–1394.

[2] Maryland Ann. Code, Art. 88A, § 44A *et seq.* (1969).

[3] The schedule for determining subsistence needs is set forth in an Appendix to this opinion.

[4] The regulation now provides:

"B. *Amount*—The amount of the grant is the resulting amount of need when resources are deducted from requirements as set forth in this Rule, subject to a maximum on each grant from each category:

"1. $250—for local departments under any 'Plan A' of Shelter Schedule

"2. $240—for local departments under any 'Plan B' of Shelter Schedule

"Except that:

"a. If the requirements of a child over 18 are included to enable him to complete high school or training for employment (III–C–3), the grant may exceed the maximum by the amount of such child's needs.

"b. If the resource of support is paid as a refund (VI–B–6), the grant may exceed the maximum by an amount of such refund. This makes consistent the principle that the amount from public assistance funds does not exceed the maximum.

"c. The maximum may be exceeded by the amount of an emergency grant for items not included in a regular monthly grant. (VIII)

"d. The maximum may be exceeded up to the amount of a grant to a person in one of the nursing homes specified in Schedule D, Section a.

"3. A grant is subject to any limitation established because of insufficient funds." Maryland Manual of Dept. of Social Services, Rule 200, § X, B, at 23, formerly Md.

all have large families, so that their standards of need as computed by the State substantially exceed the maximum grants that they actually receive under the regulation. The appellees urged in the District Court that the maximum grant limitation operates to discriminate against them merely because of the size of their families, in violation of the Equal Protection Clause of the Fourteenth Amendment. They claimed further that the regulation is incompatible with the purpose of the Social Security Act of 1935, as well as in conflict with its explicit provisions.

In its original opinion the District Court held that the Maryland regulation does conflict with the federal statute, and also concluded that it violates the Fourteenth Amendment's equal protection guarantee. After reconsideration on motion, the court issued a new opinion resting its determination of the regulation's invalidity entirely on the constitutional ground.[5] Both the statutory and constitutional issues have been fully briefed and argued here, and the judgment of the District Court must, of course, be affirmed if the Maryland regulation is in conflict with either the federal statute or the Constitution.[6] We consider the statutory question first, because if the appellees' position on this question is correct, there is no occasion to reach the constitutional issues. *Ashwander* v. *TVA*, 297 U.S. 288, 346–347 (Brandeis, J., concurring); *Rosenberg* v. *Fleuti*, 374 U.S. 449.

I

The appellees contend that the maximum grant system is contrary to § 402(a)(10) of the Social Security Act, as amended,[7] which requires that a state plan shall "provide . . . that all individuals wishing to make application for aid to families with dependent children shall have the opportunity to do so, and that aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals."

The argument is that the state regulation denies benefits to the younger children in a large family. Thus, the appellees say, the regulation is in patent violation of the Act, since those younger children are just as "dependent" as their older siblings under the definition of "dependent child" fixed by federal law.[8] See *King* v. *Smith*, 392 U.S. 309. Moreover, it is argued that the regulation, in limiting the amount of money any single household may receive, contravenes a basic purpose of the federal law by encouraging the parents of large families to "farm out" their children to relatives whose grants are not yet subject to the maximum limitation.

It cannot be gainsaid that the effect of the Maryland maximum grant provision is to reduce the per capita benefits to the children in the largest families. Although the appellees argue that the younger and more recently arrived children in such families are totally deprived of aid, a more realistic view is that the lot of the entire family is diminished because of the presence of additional children without any increase in payments. Cf. *King* v. *Smith*, *supra*, at 335 n. 4. It is no more accurate to say that the last child's grant is wholly taken away than to say that the grant of the first child is totally rescinded. In fact, it is the *family* grant that is affected. Whether this per capita diminution is compatible with the statute is the question here. For the reasons that follow, we have concluded that the Maryland regulation is permissible under the federal law.

In *King* v. *Smith*, *supra*, we stressed the States' "undisputed power," under these provisions of the Social Security Act, "to set the level of benefits and the standard of need." *Id.*, at 334. We described the AFDC enterprise as "a scheme of cooperative federalism," *id.*, at 316, and noted carefully that "[t]here is no question that States have considerable latitude in allocating their AFDC resources, since each State is free to set its own standard of need and to determine the level of benefits by the amount of funds it devotes to the program." *Id.*, at 318–319.

Congress was itself cognizant of the limitations on state resources from the vary outset of the federal welfare program. The first section of the Act, 42 U.S.C. § 601, provides that the Act is "For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, *as far as practicable under the conditions in such State*, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection . . . ." (Emphasis added.)

Thus the starting point of the statutory analysis must be a recognition that the federal law gives each State great latitude in dispensing its available funds.

The very title of the Act, the repeated references to families added in 1962, Pub. L. No. 87–543, § 104 (a)(3), 76 Stat. 185, and the words of the preamble quoted above, show that Congress wished to help children through the family structure. The operation of the statute itself has this effect. From its inception the Act has defined "dependent child" in part by reference to the relatives with whom the child lives.[9] When a "dependent child" is living with relatives, then "aid" also includes payments and medical care to those relatives, including the spouse of the child's parent. 42 U. S. C. § 606 (b). Thus, as the District Court noted, the amount of aid "is . . . computed by treating the relative, parent or spouse of parent, as the case may be, of the 'dependent child' as a part of the family unit." 297 F. Supp., at 455. Congress has been so desirous of keeping dependent children within a family that it amended the law in 1967 to provide that aid could go to children whose need arose merely from their parents' unemployment, under federally determined standards, although the parent was not incapacitated, 42 U. S. C. § 607 (1964 ed., Supp. IV).

The States must respond to this federal statutory concern for preserving children in a family environment. Given Maryland's finite resources, its choice is either to support some families adequately and others less adequately, or not to give sufficient support to any family. We see nothing in the federal statute that forbids a State to balance the stresses which uniform insufficiency of payments would impose on all families against the greater ability of large families—because of the inherent economies of scale—to accommodate their needs to diminished per capita payments. The strong policy of the statute in favor of preserving family units does not prevent a State from sustaining as many families as it can, and providing the largest families somewhat less than their ascertained per capita standard of need.[10] Nor

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Manual of Dept. of Pub. Wel., Part II, Rule 200, § VII, 1, at 20.

In addition, AFDC recipients in Maryland may be eligible for certain assistance in kind, including food stamps, public housing, and medical aid. See, *e.g.*, 42 U.S.C. § 1396 *et seq.* (1964 ed., Supp. IV); 7 U.S.C. §§ 1695–1697. The applicable provisions of state and federal law also permit recipients to keep part of their earnings from outside jobs. 42 U.S.C. §§ 630–644 (1964 ed., Sup. IV); Md. Manual of Dept. of Social Services Part II, Rule 200, § VI, B(8)(c)(2). Both federal and state law require that recipients seek work and take it if it is available. 42 U.S.C. § 602 (a)(19)(F) (1964 ed., Supp. IV); Md. Manual of Dept. of Social Services, Rule 200, § III(D)(1)(d).

[5] Both opinions appear at 297 F. Supp. 450.

[6] The prevailing party may, of course, assert in a reviewing court any ground in support of his judgment, whether or not that ground was relied upon or even considered by the trial court. Compare *Langnes* v. *Green*, 282 U.S. 531, 538, with *Story Parchment Co.* v. *Paterson Parchment Paper Co.*, 282 U.S. 555, 567–568. As the Court said in *United States* v. *American Ry. Exp. Co.*, 265 U.S. 425, 435–436: "[I]t is likewise settled that the appellee may, without taking a cross-appeal, urge in support of a decree any matter appearing in the record, although his argument may involve an attack upon the reasoning of the lower court or an insistence upon matter overlooked or ignored by it. By the claims now in question, the American does not attack, in any respect, the decree entered below. It merely asserts additional grounds why the decree should be affirmed." When attention has been focused on other issues, or when the court from which a case comes has expressed no views on a controlling question, it may be appropriate to remand the case rather than deal with the merits of that question in this Court. See *Aetna Cas. & Su. Co.* v. *Flowers*, 330 U.S. 464, 468; *United States* v. *Ballard*, 322 U.S. 78, 88. That is not the situation here, however. The issue having been fully argued both here and in the District Court, consideration of the statutory claim is appropriate. *Bondholders Committee* v. *Commissioner*, 315 U.S. 189, 192, n. 2; H. Hart & H. Wechsler. The Federal Courts and the Federal System 1394 (1953). See also *Jaffke* v. *Dunham*, 352 U.S. 280.

[7] 64 Stat. 550 (1950), as amended 76 Stat. 185 (1962), 81 Stat. 881 (1968), 42 U.S.C.A. § 602(a)(10).

[8] 42 U.S.C. § 606(a) (1964 ed., Supp. IV) provides:

"The term 'dependent child' means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment." The Act also covers children who have been placed in foster homes pursuant to judicial order or because they are State charges. 42 U.S.C. § 608.

[9] U. S. C. § 606 (a), *supra*, no. 8, formerly c. 531, § 406, 49 Stat. 629 (1935), as amended, c. 836, § 321, 70 Stat. 850 (1956). See also S. Rep. No. 628, 74th Cong., 1st Sess., 16–17 (1935).

[10] The Maryland Dept. of Social Services, Monthly Financial and Statistical Report, Table 7 (Nov. 1969), indicates that 32,504 families receive AFDC assistance. In the Maryland Dept of Social Services, 1970 Fiscal Year Budget, the department estimated that 2,537 families would be affected by the removal of the maximum grant limitation. It thus appears that only one thirteenth of the AFDC families in Maryland receive less than their determined need because of the operation of the maximum grant regulation. Of course, if the same funds were allocated sub-

does the maximum grant system necessitate the dissolution of family bonds. For even if a parent should be inclined to increase his per capita family income by sending a child away, the federal law requires that the child, to be eligible for AFDC payments, must live with one of several enumerated relatives.[11] The kinship tie may be attenuated but it cannot be destroyed.

The appellees rely most heavily upon the statutory requirement that aid "shall be furnished with reasonable promptness to all eligible individuals." 55 42 U.S.C. § 602(a)(10) (1964 ed., Supp. IV). But since the statute leaves the level of benefits within the judgment of the State, this language cannot mean that the "aid" furnished must equal the total of each individual's standard of need in every family group. Indeed the appellees do not deny that a scheme of proportional reductions for all families could be used which would result in no individual's receiving aid equal to his standard of need. As we have noted, the practical effect of the Maryland regulation is that all children, even in very large families, do receive some aid. We find nothing in 42 U. S. C. § 602(a)(10) that requires more than this.[12] So long as some aid is provided to all eligible families and all eligible children, the statute itself is not violated.

This is the view that has been taken by the Secretary of Health, Education, and Welfare, who is charged with the administration of the Social Security Act and the approval of state welfare plans. The parties have stipulated that the Secretary has, on numerous occasions, approved the Maryland welfare scheme, including its provision of maximum payments to any one family, a provision which has been in force in various forms since 1947. Moreover, a majority of the States pay less than their determined standard of need, and 20 of these States impose maximums on family grants of the kind here in issue.[13] The Secretary has not disapproved any state plan because of its maximum grant provision. On the contrary, the Secretary has explicitly recognized state maximum grant systems.[14]

"When States are unable to meet need as determined under their standards they reduce payments on a percentage or flat reduction basis.... These types of limitations may be used in the absence of, or in conjunction with, legal or administrative maximums. A maximum limits the amount of assistance that may be paid to persons whose determined need exceeds that maximum, whereas percentage or flat reductions usually have the effect of lowering payments to most or all recipients to a level below that of determined need."

See also Department of Health, Education, and Welfare, Interim Policy Statement of May 31, 1968, 33 Fed. Reg. 10230 (1968); 45 CFR § 233.20(a)(2)(ii), 34 Fed. Reg. 1934 (1969).

Finally, Congress itself has acknowledged a full awareness of state maximum grant limitations. In 1967 Congress amended 42 U.S.C. § 602(a) to add a subsection 23:

"[The State shall] provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and *any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted.*" (Emphasis added.)

This specific congressional recognition of the state maximum grant provisions is not, of course, an approval of any specific maximum. The structure of specific maximums Congress left to the States, and the validity of any such structure must meet constitutional tests. However, the 1967 amendment does make clear that Congress fully recognized that the Act permits maximum grant regulations.[15]

For all of these reasons, we conclude that the Maryland regulation is not prohibited by the Social Security Act.

II

Although a State may adopt a maximum grant system in allocating its funds available for AFDC payments without violating the Act, it may not, of course, impose a regime of invidious discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment. Maryland says that its maximum grant regulation is wholly free of any invidiously discriminatory purpose or effect, and that the regulation is rationally supportable on at least four entirely valid grounds. The regulation can be clearly justified, Maryland argues, in terms of legitimate state interests in encouraging gainful employment, in maintaining an equitable balance in economic status as between welfare families and those supported by a wage-earner, in providing incentives for family planning, and in allocating available public funds in such a way as fully to meet the needs of the largest possible number of families. The District Court, while apparently recognizing the validity of at least some of these state concerns, nonetheless held that the regulation "is invalid on its face for overreaching," 297 F. Supp., at 468—that it violates the Equal Protection Clause "[b]ecause it cuts too broad a swatch on an indiscriminate basis as applied to the entire group of AFDC eligibles to which it purports to apply. . . ." 297 F. Supp., at 469.

If this were a case involving government action claimed to violate the First Amendment guarantee of free speech, a finding of "overreaching" would be significant and might be crucial. For when otherwise valid governmental regulation sweeps so broadly as to impinge upon activity protected by the First Amendment, its very overbreadth may make it unconstitutional. See, *e. g., Shelton* v. *Tucker*, 364 U.S. 479. But the concept of "overreaching" has no place in this case. For here we deal with state regulation in the social and economic field, not affecting freedoms guaranteed by the Bill of Rights, and claimed to violate the Fourteenth Amendment only because the regulation results in some disparity in grants of welfare payments to the largest AFDC families.[16] For this Court to approve the invalidation of state economic or social regulation as "overreaching" would be far too reminiscent of an era when the Court thought the Fourteenth Amendment gave it power to strike down state laws "because they may be unwise, improvident, or out of harmony with a particular school of thought." *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 488. That era long ago passed into history. *Ferguson* v. *Skrupa*, 372 U.S. 726.

In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some "reasonable basis," it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality." *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61, 78. "The problems of government are practical ones and may justify, if they do not require, rough accommodations—illogical, it may be, and unscientific." *Metropolis Theatre Co.* v. *City of Chicago*, 228 U.S. 61, 69–70. "A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." *McGowan* v. *Maryland*, 366 U.S. 420, 426.

To be sure, the cases cited, and many others enunciating this fundamental standard under the Equal Protection Clause, have in the main involved state regulation of business or industry. The administration of public welfare assistance, by contrast, involves the most basic economic needs of impoverished human beings. We recognize the dramatically real factual difference between the cited cases and this one, but we can find no basis for applying a different constitutional standard.[17] See *Snell* v. *Wyman*, 281 F. Supp. 853, aff'd, —— U.S. ——. It is a standard that has consistently been applied to state legislation restricting the availability of employment opportunities. *Goesaert* v. *Cleary*, 335 U.S. 464; *Kotch* v. *Board of River Port Pilot Comm'rs*, 330 U.S. 552. See also *Flemming* v. *Nestor*, 363 U.S. 603. And it is a standard that is true to the principle that the Fourteenth Amendment gives the federal courts no power to impose upon the States their views of wise economic or social policy.[18]

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ject to a percentage limitation, no AFDC family would receive funds sufficient to meet its determined need.

[11] 42 U.S.C. § 606 (a), n. 8, *supra*.

[12] The State argues that in the total context of the federal statute, reference to "eligible individuals" means eligible applicants for AFDC grants, rather than all the family members whom the applicants may represent, and that the statutory provision was designed only to prevent the use of waiting lists. There is considerable support in the legislative history for this view. See H. R. Rep. No. 1300, 81st Cong., 1st Sess., 48, 148 (1949); 95 Cong. Rec. 13934 (1949) (remarks of Rep. Forand). And it is certainly true that the statute contemplates that actual payments will be made to responsible adults. See, *e.g.*, 42 U. S. C. § 605. For the reasons given above, however, we do not find it necessary to consider this argument.

[13] See Department of Health, Education, and Welfare, Report on Money Payments to Recipients of Special Types of Public Assistance, Table 4 (NCSS Report D–4 1967). See also Hearings on H.R. 5710 before the House Committee on Ways and Means, 90th Cong., 1st Sess., pt. 1, at 118 (1967).

[14] Department of Health, Education, and Welfare, State Maximums and Other Methods of Limiting Money Payments to Recipients of Special Types of Public Assistance 3 (1962).

[15] The provisions of 42 U.S.C. § 1396b (f), also added in 1967, 81 Stat. 898, are consistent with this view. That section provides that no medical assistance shall be given to any family which has a certain level of income. The section, however, makes an exception, 42 U.S.C. § 1396b (f)(1)(B)(ii):

"If the Secretary finds that the operation of a uniform maximum limits payments to families of more than one size, he may adjust amount otherwise determined under clause (i) to take account of families of different sizes."

These provisions have particular significance in light of the Administration's initial effort to secure a law forcing each State to pay its full standard of need. *See Rosado* v. *Wyman, supra.*

This recognition of the existence of state maximums is not new with the 1967 amendments. In reporting on amendments to the Social Security Act in 1962, 76 Stat. 185 (1962), the Senate committee referred to "States in which there is a maximum limiting the amount of assistance an individual may receive." S. Rep. No. 1589, 87th Cong., 2d Sess., 14 (1962).

[16] Cf. *Shapiro* v. *Thompson*, 394 U.S. 618, where, by contrast, the Court found state interference with the constitutionally protected freedom of interstate travel.

[17] It is important to note that there is no contention that the Maryland regulation is infected with a racially discriminatory purpose or effect such as to make it inherently suspect. Cf. *McLaughlin* v. *Florida*, 379 U.S. 184.

[18] See Developments in the Law—Equal Protection, 82 Harv. L. Rev. 1065, 1082–1087.

Under this long-established meaning of the Equal Protection Clause, it is clear that the Maryland maximum grant regulation is constitutionally valid. We need not explore all the reasons that the State advances in justification of the regulation. It is enough that a solid foundation for the regulation can be found in the State's legitimate interest in encouraging employment and in avoiding discrimination between welfare families and the families of the working poor. By combining a limit on the recipient's grant with permission to retain money earned, without reduction in the amount of the grant, Maryland provides an incentive to seek gainful employment. And by keying the maximum family AFDC grants to the minimum wage a steadily employed head of a household receives, the State maintains some semblance of an equitable balance between families on welfare and those supported by an employed breadwinner.[19]

It is true that in some AFDC families there may be no person who is employable.[20] It is also true that with respect to AFDC families whose determined standard of need is below the regulatory maximum, and who therefore receive grants equal to the determined standard, the employment incentive is absent. But the Equal Protection Clause does not require that a State must choose between attacking every aspect of a problem or not attacking the problem at all. *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61. It is enough that the State's action be rationally based and free from invidious discrimination. The regulation before us meets that test.

We do not decide today that the Maryland regulation is wise, that it best fulfills the relevant social and economic objectives that Maryland might ideally espouse, or that a more just and humane system could not be devised. Conflicting claims of morality and intelligence are raised by opponents and proponents of almost every measure, certainly including the one before us. But the intractable economic, social, and even philosophical problems presented by public welfare assistance programs are not the business of this Court. The Constitution may impose certain procedural safeguards upon systems of welfare administration, *Goldberg* v. *Kelly*, *ante*. But the Constitution does not empower this Court to second-guess state officials charged with the difficult responsibility of allocating limited public welfare funds among the myriad of potential recipients. Cf. *Steward Mach. Co.* v. *Davis*, 301 U. S. 548, 584–585; *Helvering* v. *Davis*, 301 U. S. 619, 644.

The judgment is reversed.

APPENDIX

[The following was the schedule for determining subsistence needs, exclusive of rent, at the time this action was brought. Maryland Manual of Department of Public Welfare, pt. II, rule 200, schedule A, 27]

Number of persons in assistance unit (include unborn child as an additional person)	I	II	III	IV	V
	Monthly costs when—				
	No heat or utilities included with shelter	Light and/or cooking fuel included with shelter	Heat with or without light included with shelter	Heat, cooking fuel, and water heating included with shelter	Heat and all utilities included with shelter
1 person living:					
Alone	$51.00	$49.00	$43.00	$40.00	$38.00
With 1 person	42.00	41.00	38.00	36.00	35.00
With 2 persons	38.00	37.00	35.00	34.00	33.00
With 3 or more persons	36.00	35.00	34.00	33.00	32.00
2 persons living:					
Alone	84.00	82.00	76.00	72.00	70.00
With 1 other person	76.00	74.00	70.00	68.00	66.00
With 2 or more other persons	72.00	70.00	68.00	66.00	64.00
3 persons living:					
Alone	113.00	110.00	105.00	101.00	99.00
With 1 or more other persons	108.00	106.00	101.00	99.00	97.00
4 persons	$143.00	$140.00	$135.00	$131.00	$128.00
5 persons	164.00	162.00	156.00	152.00	150.00
6 persons	184.00	181.00	176.00	172.00	169.00
7 persons	209.00	205.00	201.00	197.00	193.00
8 persons	235.00	231.00	227.00	222.00	219.00
9 persons	259.00	256.00	251.00	247.00	244.00
10 persons	284.00	281.00	276.00	271.00	268.00
Each additional person over 10 persons	24.50	24.50	24.50	24.50	24.50

Note: Modifiction of standard for cost of eating in restaurant: Add $15 per individual. Other schedules set the estimated cost of shelter in the various counties in Maryland. See id., schedule B—plan A, 29; schedule B—plan B, 30. The present schedules, which are substantially the same appear in the Maryland Manual of Department of Social Services, pt. II, rule 200, at 33, 35.

CONCURRING

MR. JUSTICE BLACK, with whom THE CHIEF JUSTICE joins, concurring.

Assuming, as the Court apparently does, that individual welfare recipients can bring an action against state welfare authorities challenging an aspect of the State's welfare plan as inconsistent with the provisions of the Social Security Act, 42 U.S.C. §§ 601–610, even though the Secretary of Health, Education, and Welfare has determined as he has here that the federal and state provisions are consistent, cf. *Rosado* v. *Wyman*, — U.S. — (1970) (BLACK, J., dissenting). I join in the opinion of the Court in this case.

MR. JUSTICE HARLAN, concurring.

I join the Court's opinion, with one reservation which I deem called for by certain implications that might be drawn from the opinion.

As I stated in dissent in *Shapiro* v. *Thompson*, 394 U.S. 618, 658–663 (1969), I find no solid basis for the doctrine there expounded that certain statutory classifications will be held to deny equal protection unless justified by a "compelling" governmental interest, while others will pass muster if they meet traditional equal protection standards. See also my dissenting opinion in *Katzenbach* v. *Morgan*, 384 U.S. 641, 660–661 (1966). Except with respect to racial classifications, to which unique historical considerations apply, see *Shapiro*, at 659, I believe the constitutional provisions assuring equal protection of the laws impose a standard of rationality of classification, long applied in the decisions of this Court, that does not depend upon the nature of the classification or interest involved.

It is on this basis, and not because this case involves only interests in "the area of economics and social welfare," *ante*, at 14, that I join the Court's constitutional holding.

DISSENTING

Mr. Justice Douglas, dissenting.

Appellees, recipients of benefits under the Aid to Families with Dependent Children program (AFDC), brought this suit under 42 U.S.C. § 1983 to declare invalid and permanently enjoin the enforcement of the Maryland maximum grant regulation, which places a ceiling on the amount of benefits payable to a family under AFDC. They alleged that the regulation was inconsistent with the Social Security Act and that it denied equal protection of the laws in violation of the Fourteenth Amendment. I do not find it necessary to reach the constitutional argument in this case, for in my view the Maryland regulation is inconsistent with the terms and purposes of the Social Security Act.

The Maryland regulation under attack, Rule 200, § X, B, of the Maryland Department of Social Services, places an absolute limit of $250 per month on the amount of a grant under AFDC, regardless of the size of the family and its actual need.[1] The effect of this regulation is to deny benefits to additional children born into a family of six, thus making it impossible for families of seven persons or more to receive an amount commensurate with their actual need in accordance with standards formulated by the Maryland Department of Social Services, whereas families of six or less can receive the full amount of their need as so determined. Appellee Williams, according to the computed need for herself and her eight children, should receive $296.15 per month. Appellees Gary should receive $331.50 for themselves and their eight children. Instead, these appellees receive the $250 maximum grant.

In *King* v. *Smith* U.S. 309, 318–319, this Court stated: "There is no question that States have considerable latitude in allocating their AFDC resources, since each State is free to set its own standard of need and to determine the level of benefits by the amount of funds it devotes to the program." That dictum, made in the context of a case which dealt with Alabama's "substitute father" regulation, does little to clarify the limits of state authority. The holding in *King* was that the Alabama regulation, which denied AFDC benefits to the children of a mother who "cohabited" in or outside her home with an able bodied man, was invalid because it defined "parent" in a manner inconsistent with § 406(a) of the Social Security Act, 42 U.S.C. § 606(a) (1964 ed., Supp. IV). The Court rejected the State's contention that its regulation was "a legitimate way of allocating its resources available for AFDC assistance." 392 U.S., at 318. Thus, whatever else may be said of the "latitude" extended to States in determining the bene-

[19] The present federal minimum wage is $52–$64 per 40-hour week, 29 U.S.C. § 206 (1964 ed., Supp. IV). The Maryland minimum wage is $46–$52 per week, Md. Code Ann., Art. 100, § 83.

[20] It appears that no family members of any of the named plaintiffs in the present case are employable.

[1] In certain counties the applicable maximum grant is $240 per month. All of the appellees in this case are residents of Baltimore City, where the $250 month maximum grant applies.

fits payable under AFDC, the holding in *King* makes clear that it does not include restrictions on the payment of benefits which are incompatible with the Social Security Act.

The methods by which a State can limit AFDC payments below the level of need are numerous. The method used in *King* was to deny totally benefits to a specifically defined class of otherwise eligible recipients. Another method, which was disapproved by Congress in § 402(a)(10) of the Social Security Act, 42 U.S.C. § 602(a)(10) (1964 ed., Supp. IV), was to refuse to take additional applications pending a decrease in the number of recipients on the assistance rolls or an increase in available funds. The two methods most commonly employed by the States at present, however, are percentage reductions and grant maximums. See National Center for Social Statistics, Social and Rehabilitation Service, U.S. Dept. of Health, Education, and Welfare, Report D-3, Tables 2, 3 (October 1968). Grant maximums, in which payments are made according to need but subject to a stated dollar maximum, are of two types: individual maximums and family maximus. Only the latter type is at issue in the present case. Percentage reductions involve payments of a fixed percentage of actual need as determined by the State's need standard.

The authority given the States to set the level of benefits payable under their AFDC plans stems from § 401 of the Social Security Act, 42 U.S.C. § 601 (1964 ed., Supp. IV), which states the purpose of the federal AFDC appropriations as "enabling each State to furnish financial assistance and rehabilitation and other services, *as far as practicable under the conditions in such State . . .*" (Emphasis added.) It is significant in this respect that the Court in *King* referred only to a State's determination of the level of benefits *"by the amount of funds it devotes to the* [AFDC] *program."* 392 U.S., at 318–319 (emphasis added). The language of § 401 and the language of the Court in *King* both reflect a concern that the Federal Government not require a state legislature to appropriate more money for welfare purposes than it is willing and able to appropriate. The use of the matching formula in § 403 of the Act, 42 U.S.C. § 603 (1964 ed., Supp. IV), supports this deference to the fiscal decisions of state legislatures. The question of a State's authority to pay less than its standard of need, however, has never been expressly decided.

Assuming, *arguendo*, that a State need not appropriate sufficient funds to pay all eligible AFDC recipients the full amount of their need, it does not follow that it can distribute such funds as it deems appropriate in a manner inconsistent with the Social Security Act. The question involved here is not one of ends, it is one of means. Thus the United States Government, in its Memorandum as Amicus Curiae in *Rosado* v. *Wyman*, decided this day, *post*, at ——, stated:

"Maximums, whether so many dollars per individual or a total number of dollars per family, have an arbitrary aspect lacking from ratable reductions, since their application means that one family or individual will receive a smaller proportion of the amounts he is determined to need under the state's test than another family or individual. Where percentage reductions are used, the payment of every family is reduced proportionately . . . . [T]his aspect explains why Congress might wish to distinguish between maximums and ratable reductions as a means of reducing a state's financial obligation and, at least inferentially, to disfavor the former." *Id.*, at 6–7.

The District Court, in its initial ruling that the Maryland regulation was inconsistent with the Social Security Act, relied primarily on § 402(a)(10) of the Act, which provides that "all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall be furnished with reasonable promptness *to all eligible individuals.*" (Emphasis added.) This provision was added by the Social Security Act Amendments of 1950, 64 Stat. 549. The House Committee on Ways and Means, where the provision originated, explained its purpose as follows:

"Shortage of funds in aid to dependent children has sometimes, as in old-age assistance, resulted in a decision not to take more applications or to keep eligible families on waiting lists until enough recipients could be removed from the assistance rolls to make a place for them. . . . [T]his difference in treatment accorded to eligible people results in undue hardship on needy persons and is inappropriate in a program financed from Federal funds." H. R. Rep. No. 1300, 81st Cong., 1st Sess., 48 (1949).

In the court below, the appellants relied upon this legislative history to argue that the "eligible individuals" to whom aid must be furnished are the applicants for aid referred to in the beginning of the provision, and not the individual members of a family unit. I find nothing in the Act or in the legislative history of § 402(a)(10) which supports that argument.

The purpose of the AFDC program, as stated in the Act, is to encourage "the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in each State, *to needy dependent children and the parents or relatives with whom they are living* to help maintain and strengthen family life . . . ." Social Security Act § 401 (emphasis added). The terms "dependent child" and "relative with whom any dependent child is living" are defined in § 406 of the Act, 42 U. S. C. § 606 (1964 ed., Supp. IV).

The aid provided through the AFDC program has always been intended for the individual dependent children, not for those who apply for the aid on their behalf. The Senate Committee on Finance, in its report on the Social Security Bill of 1935, stated this purpose in the following terms:

"The heart of any program for social security must be the child. All parts of the Social Security Act are in a very real sense measures for the security of children. . . .

"In addition, however, there is great need for special safeguards for many underprivileged children. Children are in many respects the worst victims of the depression. . . .

"Many of the children included in relief families present no other problem than that of providing work for the breadwinner of the family. These children will be benefited through the work relief program and still more through the revival of private industry. But there are large numbers of children in relief families which will not be benefited through work programs or the revival of industry.

"These are the children in families which have been deprived of a father's support and in which there is no other adult than one who is needed for the care of the children. . . .

"With no income coming in, and with young children for whom provision must be made for a number of years, families without a father's support require public assistance, unless they have been left with adequate means or are aided by friends and relatives. . . . *Through cash grants adjusted to the needs of the family it is possible to keep the young children with their mother in their own home, thus preventing the necessity of placing the children in institutions.* This is recognized by everyone to be the least expensive and altogether the most desirable method for meeting the needs of these families that has yet been devised." S. Rep. No. 628, 74th Cong., 1st Sess., 16–17 (1935) (emphasis added).

Prior to 1950, no specific provision was made for the need of the parent or other relative with whom the dependent child was living. Although this underscores the fact that the payments were intended to benefit the children and not the applicants who received those payments, the exclusion from the federal scheme of provision for the need of the caring relative operated effectively to dilute the ability of the AFDC payments to meet the need of the child. To correct this latter deficiency, the 1950 Amendments allowed provision for the needs of this caring relative. The Report of the House Committee on Ways and Means stated:

"Particularly in families with small children, it is necessary for the mother or another adult to be in the home full time to provide proper care and supervision. Since the person caring for the child must have food, clothing, and other essentials, amounts alloted to the children must be used in part for this purpose if no other provision is made to meet her needs. . . .

* * * * *

"To correct the present anomalous situation wherein no provision is made for the adult relative and to enable the State to make payments that are more nearly adequate, the bill would include the relative with whom the dependent child is living as a recipient for Federal matching purposes. . . ." H.R. Rep. No. 1300, 81st Cong., 1st Sess., 46 (1949).

This amendment emphasizes the congressional concern with fully meeting the needs of the dependent children in a given family; and it would seem to negative the necessity of those children sharing their individual allocations with other essential members of the family unit.

There is other evidence that Congress intended each eligible recipient to receive his fair share of benefits under the AFDC program. The Social Security Act Amendments of 1962 provided that a state AFDC plan must "provide for the development and application of a program for [services to maintain and strengthen family life] *for each child* who receives aid to families with dependent children. . . ." 42 U.S.C. § 602(a)(13) (1964 ed.). The 1967 amendments, which extended this program of "family services" to relatives receiving AFDC payments and "essential persons" living in the same home as the child and relative, retained the emphasis on providing these services to *"each* appropriate individual." Social Security Act, §§ 402(a)(14), (15), 42 U.S.C. §§ 602(a)(14), (15), (1964 ed., Supp. IV). The Senate Finance Committee Report on the 1967 Amendments stated:

"Under the Social Security Act Amendment of 1962, an amendment was added to title IV requiring the State welfare agency to make a program for each child, identifying the services needed, and then to provide the necessary services. This has proven a useful amendment, for it has required the States to give attention to the children and to provide services necessary to carry out the plans for the individual child. . . . [T]he committee believes that it is essential to broaden the requirement for the program of services for each child to include the entire family. The committee bill would require, therefore, that the States establish a social services program for each AFDC family. Thus there will be a broadened emphasis to include a recognition of the needs of all members of the family, including "essential persons." S. Rep. No. 744, 90th Cong., 1st Sess. 155 (1967).

These "family services" provisions are helpful in interpreting the words "all eligible individuals" in § 402(a)(10) of the Act for they reveal Congress' overriding concern with meeting the needs of each eligible recipient of aid under the AFDC program. The re-

sources commanded to meet those needs, as well as the definition of those individuals eligible to receive this aid, have expanded over the years. At first, only financial assistance was available. Now "family services" programs have been added.[2] In each case, however, the concern has been with meeting the needs of each eligible recipient.

A further indication that the phrase "all eligible individuals" as used in § 402(a)(10) refers to the individual beneficiaries of aid, and not those who apply for and receive the payments, lies in the provisions of the Act which concern the computation of federal payments to the States. Social Security Act § 403. These payments are presently computed in relation to the State's contribution to individual recipients, with federal payment of five-sixths of the first $18 a month per recipient of state expenditure, and further payment up to a maximum of $32 a month per recipient. There is no limitation on federal payments based on family size in the present provisions, nor has there ever been such a limitation in previous versions of the Act.

[2] The benefits distributed under the AFDC program include "financial assistance and rehabilitation and other services." Social Security Act § 401. The term "aid to families with dependent children" is itself defined in § 406 (b) of the Act, as "money payments with respect to, or . . . medical care in behalf of or any type of remedial care recognized under State law" in behalf of independent children, the relatives with whom they live, and other "essential persons" residing with the relative and child.

The services provided by the Act for AFDC recipients include "family services" and "child-welfare services." "Family services" are defined by § 406 (d) of the Act, as "services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence." "Child-welfare programs" are defined by § 425 of the Act, 42 U.S.C. § 625 (1965 ed., Supp. IV), as "public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities." In addition, § 402(a)(15) of the Act requires the State AFDC plan to provide for the development of a program for each appropriate relative and dependent child receiving aid under the plan, and other "essential persons" living with a relative and child receiving such aid, "with the objective of—(i) assuring, to the maximum extent possible, that such relative, child, and individual will enter the labor force and accept employment so that they will become self-sufficient, and (ii) preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life. . . ."

Section 432 of the Act, 42 U.S.C. § 632 (1964 ed., Supp. IV), provides for the establishment of work-incentive programs for AFDC recipients which include the placement of recipients over the age of 16 in employment, "institutional and work experience training for those individuals for whom such training is likely to lead to regular employment," and "special work projects for individuals for whom a job in the regular economy cannot be found." See also Social Security Act § 402 (a)(19).

The State must also provide foster care in accordance with § 408 of the Act. Social Security Act § 402 (a)(20). And whenever the State feels that AFDC payments may not be used in the best interests of the child, it may provide for counseling or guidance with respect to the use of such payments and the management of other funds. Social Security Act § 405, U.S.C. § 605.

Section 403(d)(1) of the Act imposes a limitation on federal payments to States as respects children whose eligibility is based upon the absence from the home of a parent. Under this section, the number of AFDC children under age of 18 for which federal sharing is available cannot exceed the ratio of AFDC children eligible because of an "absent parent" to the total child population of a State as of January 1, 1968. Appellants have argued that this limitation somehow indicates congressional approval of the maximum grant concept. The District Court below properly rejected that contention. The Report of the House Committee on Ways and Means indicates that the purpose of the limitation is to keep federal financial participation "within reasonable bounds" and to "give the State an incentive to make effective use of the constructive programs which the bill would establish." H.R. 544, 90th Cong., 1st Sess., 110. Keeping federal participation "within reasonable bounds" was tied to the fact that the "absent parent" category of AFDC recipients was the one which was growing most rapidly. *Ibid.* This provision, however, relates only to federal contributions to a State's AFDC program, and does not authorize the State's termination of aid to any of the children who would otherwise be eligible for aid because of an absent parent. Representatives Mills explained the purpose of this limitation to the House in the following terms:

"Finally, Mr. Chairman, the bill would add a provision to present law which would limit Federal financing for the largest AFDC category—where the parent is absent from the home—to the proportion of each State's total child population that is now receiving AFDC in this ctaegory. This provision, we believe, would give the States an additional incentive to make effective use of the constructive programs which the bill would establish. Moreover, this limitation on Federal matching will not prevent any deserving family from receiving aid payments. The States would not be free to keep any family off the rolls to keep within this limitation because there is a requirement in the law that requires equal treatment of recipients and uniform administration of a program within a State. . . ." 113 Cong. Rec. 10670 (August 17, 1967).

In sum, the provisions of the Act which compute the amount of federal contribution to state AFDC programs are related to state payments to individual recipients and have consistently excluded any limitation based upon family size. The limitation contained in § 403(d)(1) of the Act affects only the amount of federal matching funds in one category of aid, and in no way indicates congressional approval of maximum grants.

The purpose of the AFDC provisions of the Social Security Act is not only to provide for the needs of dependent children, but also "to keep the young children with their mother in their own home, thus preventing the necessity of placing the children in institutions." S. Rep. No. 628, 74th Cong. 1st Sess., 17 (1935). Also see Social Security Act § 401. As the District Court noted, however, "the maximum grant regulation provides a powerful economic incentive to break up large families by placing 'dependent children' in excess of those whose subsistence needs, when added to the subsistence needs of other members of the family, exceed the maximum grant, in the homes of persons included in the class of eligible relatives." 297 F. Supp., at 456. By this device, payments for the "excess" children can be obtained.

"If Mrs. Williams were to place two of her children of twelve years or over with relatives, each child so placed would be eligible for assistance in the amount of $79.00 per month, and she and her six remaining children would still be eligible to receive the maximum grant of $250.00. If Mr. and Mrs. Gary were to place two of their children between the ages of six and twelve with relatives, each child so placed would be eligible for assistance in the amount of $65.00 per month, and they and their six remaining children would still be eligible to receive the maximum grant of $250.00 *Id.*, at 453–454.

The District Court correctly states that this incentive to break up family units created by the maximum grant regulation is in conflict with a fundamental purpose of the Act.

The history of the Social Security Act thus indicates that Congress intended the financial benfits, as well as the other benefits, of the AFDC program to reach each individual recipient eligible under the federal criteria. It was to this purpose that Congress had reference when it commanded in § 402(a)(10) of the Act that aid families with dependent children shall be furnished to "all eligible individuals."[3]

The Court attempts to avoid the effect of this command by stating that "it is the *family* grant that is affected." *Ante*, at —. The implication is that, regardless of how the AFDC payments are computed or to whom they apply, the payments will be used by the parents for the benefit of all the members of the family unit. This is no doubt true. But the fact that parents may take portions of the payments intended for certain children to give to other children who are not given payments under the State's AFDC plan, does not alter the fact that aid is not being given *by the State* to the latter children. And it is payments by the State, not by the parents, to which the command of § 402(a)(10) is directed. The Court's argument would equate family grant maximums with percentage reductions, but the two are, in fact, quite distinct devices for limiting welfare payments. If Congress wished to design a scheme under which each family received equal payments, irrespective of the size of the family, I see nothing that would prevent it from doing so. But this is not the scheme of Congress under the present Act.

Against the legislative history and the command of § 402(a)(10), the appellants cite three provisions of the Social Security Act as recognizing the validity of state maximum grant regulations.

The first of these provisions is § 402(a)(23) of the Act, 42 U.S.C. § 602(a)(23) (1964 ed., Supp. IV), which provides:

"A State plan for aid and services to needy families with children must . . . provide that by July 1, 1969 the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted."

This section had its genesis in an Administration proposal to require States to pay fully the amounts required by their standard of need, and also to make cost-of-living adjustments to that standard of need by July 1, 1968, and annually thereafter. House Committee on Ways and Means, Hearing on H.R. 5710, 90th Cong., 1st Sess., 59 (1967); House Committee on Ways and Means, Section-by-Section Analysis of H.R. 5710, 90th Cong., 1st Sess., 118–119 (1967). The bill which emerged from the House as H.R. 12080, however, did not include any provision relating to an increase in benefit levels

[3] Note 1, *supra*.

or adjustments to standards of need. See Senate Committee on Finance, Hearings on H.R. 12080, 90th Cong., 1st Sess., 109–144 (1967). A provision requiring a cost-of-living adjustment in the standard of need by July 1, 1969, and annually thereafter was added to the House bill by the Senate Finance Committee, and this provision also required that "any maximums . . . on the amount of aid" be proportionately adjusted. S. Rep. No. 744, 90th Cong., 1st Sess., 293 (1967). An amendment of the bill was proposed in the Senate which would have required a positive increase in AFDC payments, but that amendment was rejected. 113 Cong. Rec. 33560 (Nov. 21, 1967). The Senate-House Conference Committee adopted the Senate AFDC cost-of-living provision, omitting only the requirement for annual updating of need standards after July 1, 1969. H.R. Rep. No. 1030 (Conference Report), 90th Cong., 1st Sess., 63 (1967).

Nowhere in any of the hearings, committee reports, on floor debates, is there shown a congressional intent to validate state maximum grant regulations by the provisions of § 402(a)(23). Rather, the legislative history shows that Congress was exclusively concerned with increasing the income of AFDC recipients. If Congress had not required cost-of-living adjustments in state-imposed grant maximums, the States could easily nullify the effect of the cost-of-living adjustments for many AFDC families by retaining the grant ceilings in force before the adjustment was made. Congress was, to be sure, acknowledging the existence of maximum grant regulations. But every congressional reference to an existing practice does not automatically imply approval of that practice. The task of statutory construction requires more. It requires courts to look to the context of that reference and to the history of relevant legislation. In the present context, the reference to maximum grants was necessary to preserve the integrity of the cost-of-living adjustment required by the bill. No further significance can legitimately be read into that reference.

Appellants also rely on § 108(a) of P.L. 87–543, 76 Stat. 172, a provision of the Public Welfare Amendments of 1962 that amended § 406 of the Act. This amendment, which has since been superseded, authorized "protective payments" to an individual other than the relative with whom the dependent child is living. The problem which this amendment was designed to cure was that some payees were unable to manage their funds so that the dependent children received the full benefit of the AFDC payments. Hearings on H.R. 10606 before the Senate Committee on Finance, 87th Cong., 2d Sess., 17 (1962). The House bill required "a meeting of all need as determined by the State" as a condition to including "protective payments" within the definition of "aid to families with dependent children." The Senate Finance Committee changed that requirement, however, by an amendment which authorized federal funding of "protective payments" if the state-determined need of individuals with respect to whom such payments were made was fully met by their assistance payment and other income or resources. The Senate Committee explained this provision as follows:

"The effect of this provision is to make it possible for protective payments to be made in behalf of certain ADC recipients in States in which there is a maximum limiting the amount of assistance an individual may receive. These are the cases in which the statutory maximum does not prevent need from being met in full according to the State's standards." S. Rep. No. 1589, 87th Cong., 2d Sess., 1 U.S. Code Cong. & Adm. News, 1956 (1962).

This reference to a state-imposed maximum can hardly be interpreted as a congressional approval of a family maximum grant. If anything, it implicitly disapproves the concept by withholding federal payments with respect to individuals receiving "protective payments" when a maximum grant operates to prevent these individuals from receiving the full amount of their state-determined need.

The final statutory provision relied upon by appellants is § 220(a) of P.L. 90–248, 81 Stat. 821, which added to the Medical Assistance Title of the Act a new § 1903(f), 42 U.S.C. § 1396b(f) (1964 ed., Supp. IV). This section limits federal financial participation in medical assistance benefits to those whose incomes do not exceed 133⅓% of the highest amount of AFDC assistance paid to a family of the same size without any income or resources. This section, however, also provides: "If the Secretary [of Health, Education, and Welfare] finds that the operation of a uniform maximum limits payments to families of more than one size, he may adjust the amount otherwise determined . . . to take account of families of different sizes." The purpose of this provision was to allow qualification as medically indigent of those individuals who would have qualified but for the operation of an AFDC grant maximum, and thus prevent the extension of the operation of grant maximums into the Medical Assistance Title. Congressional rejection of grant maximums in the Medical Assistance Title does not infer their approval in the context of the AFDC provisions. Quite the contrary would seem to be the case.

In all of the legislative provisions relied upon by the appellants, the congressional reference to maximum grants has been made in the context of attempting to alleviate the harsh results of their application, not in a context of approving and supporting their operation. The three statutory references cited by appellants and discussed above are clearly inadequate to overcome the long history of concern manifested in the AFDC provisions of the Social Security Act for meeting the needs of each eligible recipient, and the command of § 402(a)(10) of the Act to that effect.

Appellants tender one further argument as to the compliance of the Maryland maximum grant regulation with the Social Security Act. That argument is that the Department of Health, Education, and Welfare has not disapproved of any of the Maryland plans which have included maximum grant provisions, and that this lack of disapproval by HEW is a binding administrative determination as to the conformity of the regulation with the Social Security Act. That argument was thoroughly explored by the District Court below in its supplemental opinion. The District Court accepted the claim that HEW considers the Maryland maximum grant regulation not to be violative of the Act, but held:

"In view of the fact, however, that there is no indication from administrative decision, promulgated regulation, or departmental statement that the question of the conformity of maximum grants to the Act has been given considered treatment, we believe that the various actions and inactions on the part of HEW are not entitled to substantial, much less decisive, weight in our consideration of the instant case." 297 F. Supp., at 460.

HEW seldom has formally challenged the compliance of a state welfare plan with the terms of the Social Security Act. See Note, Federal Judicial Review of State Welfare Practices, 67 Col. L. Rev. 84, 91 (1967). The mere absence of such a formal challenge, whatever may be said for its constituting an affirmative determination of the compliance of a state plan with the Social Security Act, is not such a determination as is entitled to decisive weight in the judicial determination of this question.

On the basis of the inconsistency of the Maryland maximum grant regulation with the Social Security Act, I would affirm the judgment below.

Mr. Justice Marshall, whom Mr. Justice Brennan joins, dissenting.

For the reasons stated by Mr. Justice Douglas, to which I add some comments of my own, I believe that the Court has erroneously concluded that Maryland's maximum grant regulation is consistent with the federal statute. In my view, that regulation is fundamentally in conflict with the basic structure and purposes of the Social Security Act.

More important in the long run than this misreading of a federal statute, however, is the Court's emasculation of the Equal Protection Clause as a constitutional principle applicable to the area of social welfare administration. The Court holds today that regardless of the arbitrariness of a classification it must be sustained if any state goal can be imagined which is arguably furthered by its effects. This is so even though the classification's under- or over-inclusiveness clearly demonstrates that its actual basis is something other than that asserted by the State, and even though the relationship between the classification and the state interests which it purports to serve is so tenuous that it could not seriously be maintained that the classification tends to accomplish the ascribed goals.

The Court recognizes, as it must, that this case involves "the most basic economic needs of impoverished human beings," and that there is therefore a "dramatically real factual difference" between the instant case and those decisions upon which the Court relies. The acknowledgement that these dramatic differences exist is a candid recognition that the Court's decision today is wholly without precedent. I cannot subscribe to the Court's sweeping refusal to accord the Equal Protection Clause any role in this entire area of the law, and I therefore dissent from both parts of the Court's decision.

At the outset, it should be emphasized exactly what is involved in determining whether this maximum grant regulation is consistent with and valid under the federal law. In administering its AFDC program, Maryland has established its own standards of need, and they are not under challenge in this litigation. Indeed, the District Court specifically refused to require additional appropriations on the part of the State or to permit appellees to recover a monetary judgment against the State. At the same time, however, there is no contention, nor could there be any, that the maximum grant regulation is in any manner related to calculation of need.[1] Rather, it arbitrarily cuts across state-defined standards of need to deny any additional assistance with respect to the fifth or any succeeding child in a family.[2] In short,

[1] The Court is thus wrong in speaking of "the greater ability of large families—because of the inherent economies of scale—to accommodate their needs to diminished per capita payments." Those economies have already been taken into account once in calculating the standard of need. Indeed, it borders on the ludicrous to suggest that a large family is more capable of living on perhaps 50% of its standard of need than a small family is on 95%

[2] Because of minor variations in the calculation of the subsistence needs of particular families, and because the maximum grant varies between $240 and $250 per month, depending upon the county in which a particular family resides, the cutoff point between families which receive the full subsistence allowance and those which do not is not precisely families of more than six members. In practice, it appears that the subsistence needs of a family of six members are fully met. The needs of the seventh member (*i.e.*, the fifth or sixth child, depending

the regulation represents no less than the refusal of the State to give any aid whatsoever for the support of certain dependent children who meet the standards of need which the State itself has established.

Since its inception in the Social Security Act of 1935, the focus of the federal AFDC program has been to provide benefits for the support of dependent children of needy families with a view toward maintaining and strengthening family life within the family unit. As succinctly stated by the Senate Committee on Finance, "[t]he objective of the aid to dependent children program is to provide cash assistance for needy children *in their own homes.*"[2] In meeting these objectives, moreover, Congress has provided the outlines that the AFDC plan is to follow if a State should choose to participate in the federal program. The maximum grant regulation, however, does not fall within these outlines or accord with the purposes of the Act. And the Court by approving it allows for a complete departure from the congressional intent.

The phrase "aid to families with dependent children," from which the AFDC program derives its name, appears in § 402(a)(10) of the Act, 42 U.S.C. § 602(a)(10), and is defined in 42 U.S.C. § 606(b) as, *inter alia*, "money payments *with respect to* . . . dependent children." (Emphasis added.) Moreover, the term "dependent child" is also extensively defined in the Act. See 42 U.S.C. § 606(a). Nowhere in the Act is there any sanction or authority for the State to alter those definitions—that is, to select arbitrarily from among the class of needy dependent children those whom it will aid. Yet the clear effect of the maximum grant regulation is to do just that, for the regulation creates in effect a class of otherwise eligible dependent children with respect to whom no assistance is granted.

It was to disapprove just such an arbitrary device to limit AFDC payments that Congress amended § 402 (a)(10) in 1951 to provide that aid "shall be furnished with reasonable promptness *to all eligible individuals.*" (Emphasis added.) Surely, as my Brother DOUGLAS demonstrates, this statutory language means at least that the State must take into account the needs of, and provide aid with respect to, *all* needy dependent children. Indeed, that was our assessment of the congressional design embodied in the AFDC program in *King* v. *Smith*, 392 U.S. 309, 329–330, 333 (1968).

The opinion of the Court attempts to avoid this reading of the statutory mandate by the conclusion that parents will see that all the children in a large family share in whatever resources are available so that all children "do receive some aid." And "[s]o long as some aid is provided to all eligible families and all eligible children, the statute itself is not violated." The Court also views sympathetically the State's contention that the "all eligible individuals" clause was designed solely to prevent discrimination against new applicants for AFDC benefits. I am unpersuaded, however, by the view that Congress simultaneously prohibited discrimination against one class of dependent children—those in families not presently receiving benefits—and at the same time sanctioned discrimination against another class—those children in large families. Furthermore, the Court's interpretation would permit a State to impose a drastically reduced maximum grant limitation—or, indeed, a uniform payment of, say, $25 per family per month—as long as all families were subject to the rule. Thus, merely by purporting to compute standards of need and granting some benefits to all eligible families, the State would comply with the federal law—in spite of the fact that the needs of none or very few dependent children would thereby be taken into account in the actual assistance granted. I cannot agree that Congress intended that a State should be entitled to participate in the federally funded AFDC program under such circumstances.

Moreover, the practical consequences of the maximum grant regulation in question here confirm me in the view that it is invalid. Under the complicated formula for determining the extent of federal support for the AFDC program in the various States, the federal subsidy is based upon "the total number of recipients of aid to families with dependent children." 42 U.S.C. § 603(a). "Recipients" is defined in the same provision to include both dependent children and the eligible relative or relatives with whom they live. There is, however, no limitation upon the number of recipients per family unit for whom the federal subsidy is paid to the States. Thus, when a maximum family grant regulation is in effect, the State continues to receive a federal subsidy for each and every dependent child even though the State passes *none* of this subsidy on to the large families for the use of the additional dependent children.

Specifically, in Maryland, the record in this case indicates that the State spends an average of almost $40 per recipient per month. Under the federal matching formula, federal funds provide $22 of the first $32 per recipient, with anything above $32 being supplied by the State.[4] However, the Federal Government provides a maximum of $22 for every dependent child, although none of that amount is received by the needy family in the case of the fifth or sixth and succeeding children. The effect is to shift a greater proportion of the support of large families from the State to the Federal Government as the family size increases. Indeed, if the size of the family should equal or exceed 11, the State would succeed in transferring the entire support burden for the family to the Federal Government, or even make a "profit" in the sense that it would receive more from the Federal Government with respect to the family than the $250 maximum which is actually paid to that family. It is impossible to conclude that Congress intended so incongruous a result. On the contrary, when Congress undertook to subsidize payments on behalf of *each recipient*—including each dependent child—it seems clear that Congress intended each needy dependent child to receive the use and benefit of at least the incremental amount of the federal subsidy paid on his account.

A second effect of the maximum family grant regulation further demonstrates its inconsistency with the federal program. As administered in Maryland, the regulation serves to provide a strong economic incentive to the disintegration of large families. This is so because a family subject to the maximum regulation can, merely by placing the ineligible children in the homes of other relatives, receive additional monthly payments for the support of these additional dependent children.[5] When families are receiving support which is concededly far below their bare minimum subsistence needs, the economic incentive which the maximum grant regulation provides to divide up large families can hardly be viewed as speculative or negligible. The opinion of this Court does not even dispute this effect.[6] The Court answers by saying that the family relationship "may be attenuated but it cannot be destroyed" Yet it was just this kind of attenuation that, as the legislative history conclusively demonstrates,[7] Congress was concerned with eliminating in establishing the AFDC program. The Court's rationale takes a long step backwards toward the time when persons were dependent upon the charity of their relatives—the very situation meant to be remedied by AFDC.

Despite its denial of the principle that payments should be made with regard to all eligible individuals and its conflict with the basic purposes of the Act, the Maryland regulation is nevertheless found by the Court to be consistent with the federal law because the existence of such regulations has been recognized by Congress. To bolster this view, the Court argues that the same conclusion has been reached by the department charged with administering the Act. On neither score is the Court convincing.

With regard to the position of the Secretary of HEW, about all that can be said with confidence is that we do not know his views on the validity of family maximum regulations within the federal structure.[8] The rea-

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upon whether one or both parents are within the assistance unit), as defined by the State are met, if at all, only to a very small extent. In the usual situation, no payments whatever would be made with respect to any additional eligible dependent children.

[2] S. Rep. No. 165, 87th Cong., 1st Sess., 6 (1961). (Emphasis added.)

[4] More technically, the Federal Government supplies five-sixths of the overall amount spent per recipient up to $18, plus one-half of the amount from $18 to $32,, to a total of $22. See 42 U.S.C. § 603.

[5] For example, in the case of the appellee, Mrs. Williams, if she were to place two of her children over 12 years of age with relatives, payments of $79 per month would be paid with respect to each child. Thus, a total of $408 per month, or $158 above the maximum, would be available for the support of Mrs. Williams and her eight children. Similarly, if appellees Mr. and Mrs. Gary were to place with relatives two of their children who are between the ages of 6 and 12 years, each child would be eligible to receive $65. Hence Mr. and Mrs. Gary and their eight children would receive support in the amount of $380 per month, or some $130 above the family maximum.

[6] The State has contended that the economic incentive to disintegration of large families which the maximum grant regula- provides is merely speculative. However, serious doubt is cast upon this view by the stipulation of facts entered in the District Court which states in part that, despite the strong desire to keep their families together, appellees in this case were having great difficulty in doing so because of the limitations on their grants.

[7] In S. Rep. No. 628, 74th Cong., 1st Sess., 17 (1935), the original goals of the AFDC program are stated as follows: "With no income coming in, and with young children for whom provision must be made for a number of years, families without a father's support require public assistance, unless they have been left with adequate means or are aided by friends and relatives. . . . Through cash grants *adjusted to the need of the family* it is possible to keep young children *with their mother in their own home*, thus preventing the necessity of placing children in institutions. This is recognized by everyone to be the least expensive and altogether most desirable method for meeting the needs of these families that has yet been devised." (Emphasis added.) See also H. R. Rep. No. 615, 74th Cong., 1st Sess., 10 (1935).

These goals remain the same today. See 42 U.S.C. § 601. See generally Note, Welfare's "Condition X," 76 Yale L. J. 1222, 1232–1233 (1967).

[8] In various briefs submitted both to this Court and to other courts in analogous litigation, the Secretary of HEW and the Solicitor General have taken the occasion to label family maximum grant regulations as "arbitrary," oppressive of large families, as resulting in "patently different treatment of individuals," and having received, at least inferentially, the disfavor of Congress. See, *e.g.*, Memorandum for the United States as

son is simple—he has not been asked. Thus, contrary to our admonition given today to the district courts in considering cases in this area, that whenever possible they "should obtain the views of HEW in those cases where it has not set forth its views," *Rosado* v. *Wyman, ante,* at —, the Government was not invited to file a brief in this case. Perhaps the reason is that this Court is fully versed in the complexities of the Federal AFDC program. I am dubious, however, when the Court explicitly relies on the failure of the Secretary to disapprove the Maryland welfare scheme. For if anything at all is completely clear in this area of the law it is that the failure of HEW to cut off funds from a state program has no meaning at all. See *Rosado* v. *Wyman, supra,* at — (DOUGLAS, J., concurring).

Finally, the Court tells us that Congress has said that the Act permits maximum grant regulations. If it had, this part of the case would be obvious; but, of course, it has not. There is no indication Congress has focused on the family maximum as opposed to individual or other maxima or combinations of such limiting devices. [9] and, to the extent that it could be said to have done so, as my Brother DOUGLAS fully demonstrates, it was in the context of disapproving all maxima and ameliorating the harshness of their effects. See also *Rosado* v. *Wyman, supra,* at —. These slender threads of legislative comment simply cannot be woven into a conclusion of legislative sanction. Cf. *Shapiro* v. *Thompson,* 394 U.S. 618, 638–640 (1969). Furthermore, it is fundamental that in construing legislation, "we must not be guided by a single sentence or member of a sentence, but [should] look to the provisions of the whole law, and to its object and policy." *Richards* v. *United States,* 369 U.S. 1, 11 (1961). We concluded in *King* v. *Smith, supra,* after an extensive review of the AFDC program, that Congress "intended to provide programs for the economic security and protection of *all* children" and did not intend "arbitrarily to leave one class of destitute children entirely without meaningful protection." 392 U.S., at 330. (Emphasis in original.) That reasoning is likewise applicable to the instant case, in which the maximum grant regulation excludes consideration of the needs of a certain class of dependent children in large families. It is apparent, therefore, that Maryland's maximum grant regulation is not consistent with the Social Security Act, and hence appellees were entitled to the injunction they obtained against its operation.

Having decided that the injunction issued by the District Court was proper as a matter of statutory construction, I could affirm on that ground alone. However, the majority has of necessity passed on the constitutional issues. I believe that in overruling the decisions of this and every other district court that has passed on the validity of the maximum grant device,[10] the Court both reaches the wrong result and lays down an insupportable test for determining whether a State has denied its citizens the equal protection of the laws.

The Maryland AFDC program in its basic structure operates uniformly with regard to all needy children by taking into account the basic subsistence needs of all eligible individuals in the formulation of the standards of need for families of various sizes. However, superimposed upon this uniform system is the maximum grant regulation, the operative effect of which is to create two classes of needy children and two classes of eligible families: those small families and their members who receive payments to cover their subsistence needs and those large families who do not.[11]

This classification process effected by the maximum grant regulation produces a basic denial of equal treatment. Persons who are concededly similarly situated (dependent children and their families), are not afforded equal, or even approximately equal, treatment under the maximum grant regulation. Subsistence benefits are paid with respect to some needy dependent children; nothing is paid with respect to others. Some needy families receive full subsistence assistance as calculated by the State; the assistance paid to other families is grossly below their similarly calculated needs.

Yet, as a general principle, individuals should not be afforded different treatment by the State unless there is a relevant distinction between them, and "a statutory discrimination must be based on differences that are reasonably related to the purposes of the Act in which it is found." *Morey* v. *Doud,* 354 U.S. 457, 465 (1957). See *Gulf, Colorado & Santa Fe Ry.* v. *Ellis,* 165 U.S. 150, 155 (1897). Consequently, the State may not, in the provision of important services or the distribution of governmental payments, supply benefits to some individuals while denying them to others who are similarly situated. See, *e.g., Griffin* v. *County School Board of Prince Edward County,* 377 U.S. 218 (1964).

In the instant case, the only distinction between those children with respect to whom assistance is granted and those children who are denied such assistance is the size of the family into which the child permits himself to be born. The class of individuals with respect to whom payments are actually made (the first four or five eligible dependent children in a family), is grossly underinclusive in terms of the class which the AFDC program was designed to assist, namely *all* needy dependent children. Such underinclusiveness manifests "a *prima facie* violation of the equal protection requirement of reasonable classification," [12] compelling the State to come forward with a persuasive justification for the classification.

The Court never undertakes to inquire for such a justification; rather it avoids the task by focusing upon the abstract dichotomy between two different approaches to equal protection problems which have been utilized by this Court.

Under the so-called "traditional test," a classification is said to be permissible under the Equal Protection Clause unless it is "without any reasonable basis." *Lindsley* v. *Natural Carbonic Gas Co.,* 220 U.S. 61, 78 (1911).[13] On the other hand, if the classification affects a "fundamental right," then the state interest in perpetuating the classification must be "compelling" in order to be sustained. See, *e.g., Shapiro* v. *Thompson, supra; Harper* v. *Board of Elections,* 383 U.S. 663 (1966); *McLaughlin* v. *Florida,* 379 U.S. 184 (1964).

This case simply defies easy characterization in terms of one or the other of these "tests." The cases relied on by the Court in which a "mere rationality" test was actually used, *e.g., Williamson* v. *Lee Optical Co.,* 348 U.S. 483 (1955), are most acurately described as involving the application of equal protection reasoning to the regulation of business interests. The extremes to which the Court has gone in dreaming up rational bases for state regulation in that area may in many instances be ascribed to a healthy revulsion from the Court's earlier excesses in using the Constitution to protect interests which have more than enough power to protect themselves in the legislative halls. This case, involving the literally vital interests of a powerless minority—poor families without breadwinners—is far removed from the area of business regulation, as the Court concedes. Why then is the standard used in those cases imposed here? We are told no more than that this case falls in the area of economics and social welfare," with the implication that from there the answer is obvious.

In my view, equal protection analysis of this case is not appreciably advanced by the *a priori* definition of a "right," fundamental or otherwise.[14] Rather, concentration must be placed upon the character of the classi-

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Amicus Curiae, *Rosado* v. *Wyman,* No. 540, 1969 Term; Brief of Robert H. Finch, Secretary of Health, Education, and Welfare as Amicus Curiae, *Lampton* v. *Bonin,* 299 F. Supp. 336, 304 F. Supp. 1384 (D. C. E. D. La. 1969); Brief of Robert H. Finch, etc., *Jefferson v. Hackney,* 304 F. Supp. 1332 (D. C. N. D. Tex. 1969). Hence the views of HEW on the precise issue presented in the instant case are, at the very best, ambiguous and quite possibly the opposite of what the Court ascribes to it.

[9] The maximum may be expressed in terms of a flat dollar amount, as a percentage of the individual's budgetary deficit (*i.e.,* the difference between need and other income), or in both ways. A system of individual maximums may, or may not, be combined with a family maximum, or, alternatively, a family maximum may be imposed in the absence of individual maximums. See generally Department of Health, Education, and Welfare, State Maximums and Other Methods of Limiting Money Payments to Recipients of Special Types of Public Assistance (1968); Sparer, Social Welfare Law Testing, 12 Prac. Law (No. 4) 13, 21. In addition, there are differing methods by which family maximums may be realted to other resources available to the family. Some States, including Maryland, subtract available resources from the state-calculated need; in other jurisdictions, available resources are subtracted from the family maximum. See, *e.g., Dews* v. *Henry,* 297 F. Supp. 587 (D.C.D. Ariz. 1969), involving litigation with respect to the Arizona family maximum.

[10] The lower courts have been unanimous in the view that maximum grant regulations such as Maryland's are invalid. See *Dews* v. *Henry, supra; Westbury* v. *Fisher,* 297 F. Supp. 1109 (D.C.D. Me. 1969); *Lindsey* v. *Smith,* 303 F. Supp. 1203 (D.C. W. D. Wash. 1969); *Kaiser* v. *Montgomery,*—F. Supp.— (D.C. N.D. Cal. 1969). See also *Collins* v. *State Board of Social Welfare,* 248 Iowa 369, 81 N.W. 2d 4 (1957) (family maximum invalid under equal protection clause of state constitution); *Metcalf* v. *Swank,* 293 F. Supp. 268 (D.C. N.D. Ill. 1968) (dictum).

[11] In theory, no payments are made with respect to needy dependent children in excess of four or five as the case may be. In practice, of course, the excess children share in the benefits which are paid with respect to the other members of the family. The result is that support for the entire family is reduced below minimum subsistence levels. However, for purposes of equal protection analysis, it makes no different whether the class against which the maximum grant regulation discriminates is defined as eligible dependent children in excess of the fourth or fifth, or, alternatively, as individuals in large families generally; that is, those with more than six members.

[12] Tussman & tenBroek, The Equal Protection of the Laws, 37 Calif. L. Rev. 341, 348 (1949).

[13] See generally Developments in the Law—Equal Protection, 82 Harv. L. Rev. 1065, 1076–1087 (1969).

[14] See generally Van Alstyne, The Demise of the Right-Privilege Distinction in Constitutional Law, 81 Harv. L. Rev. 1439 (1968). Appellees do argue that their "fundamental rights" are infringed by the maximum grant regulation. They cite, for example, *Skinner* v. *Oklahoma,* 316 U.S. 535 (1942), for the proposition that the "right of procreation" is fundamental. This statement is no doubt accurate as far as it goes, but the effect of

fication in question, the relative importance to individuals in the class discriminated against of the governmental benefits which they do not receive, and the asserted state interests in support of the classification. As we said only recently, "In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind the law, the interests which the State claims to be protecting, and the interests of those who are disadvantaged by the classification." *Kramer* v. *Union School District*, 395 U.S. 621, 626 (1969), quoting *Williams* v. *Rhodes*, 393 U.S. 23, 30 (1968).[15]

It is the individual interests here at stake which, as the Court concedes, most clearly distinguish this case from the "business regulation" equal protection cases. AFDC support to needy dependent children provides the stuff which sustains those children's lives: food, clothing, shelter.[16] And this Court has already recognized several times that when a benefit, even a "gratuitous" benefit, is necessary to sustain life, stricter constitutional standards, both procedural[17] and substantive,[18] are applied to the deprivation of that benefit.

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the maximum grant regulation upon the right of procreation is marginal and indirect at best, totally unlike the compulsory sterilization law which was at issue in *Skinner*.

At the same time the Court's insistence that equal protection analysis turns on the basis of a closed category of "fundamental rights" involves a curious value judgment. It is certainly difficult to believe that a person whose very survival is at stake would be comforted by the knowledge that his "fundamental" rights are preserved intact.

On the issue of whether there is a "right" to welfare assistance, see generally Graham, Public Assistance: The Right To Receive; the Obligation To Repay, 43 N. Y. U. L. Rev. 451 (1968); Harvith, Federal Equal Protection and Welfare Assistance, 31 Albany L. Rev. 210 (1967); Note, Welfare Due Process: The Maximum Grant Limitation on the Right To Survive, 3 Ga. L. Rev. 459 (1969). See also Universal Declaration of Human Rights, Art. 25.

[15] This is essentially what this Court has done in applying equal protection concepts in numerous cases, though the various aspects of the approach appear with a greater or lesser degree of clarity in particular cases. See, *e. g., McLaughlin* v. *Florida, supra; Rinaldi* v. *Yeager*, 384 U. S. 305 (1966); *Carrington* v. *Rash*, 380 U. S. 89 (1965); *Douglas* v. *California*, 372 U. S. 353 (1963); *Skinner* v. *Oklahoma, supra*.

For an application of this approach to several welfare questions, see Note, Equal Protection as a Measure of Competing Interests in Welfare Litigation, 21 Me. L. Rev. 175 (1969).

[16] See also *Rothstein* v. *Wyman*, 303 F. Supp. 339, 346–347 (D. C. S. D. N. Y. 1969); *Harvith, supra*, n. 28, at 222–226.

[17] See *Sniadach* v. *Family Finance Corp.*, 394 U.S. 337, 340–342 (1969) (relying on devastating impact of wage garnishment to require prior hearing as a matter of due process); *Goldberg* v. *Kelly*, 397 U. S. ——, —— (1970); "Thus the crucial factor in this context—a factor not present in the case of the blacklisted government contractor, the discharged government employee, the taxpayer denied a tax exemption, or virtually anyone else whose governmental largesse is ended—is that termination of aid pending resolution of a controversy over eligibility may deprive an *eligible* recipient of the very means by which to live while he waits."

[18] Compare *Shapiro* v. *Thompson, supra*, at 627, striking down one-year residency requirement for welfare eligibility as violation of equal protection, and noting that the benefits in question are "the very means to subsist—food, shelter, and other necessities of life," with *Kirk* v. *Board of Regents* — Cal. App. 2d ——, ——, 78 Cal. Rptr. 260, 266–267 (1969), appeal dismissed, 396 U. S. 554 (1970) upholding one-year residency requirement for tuition-free graduate education at state university, and distinguishing *Shapiro* on the ground that it "involved the immediate and pressing need for preservation of life and health of persons unable to live without public assistance, and their dependent children."

These cases and those cited n. 17, *supra*, suggest that whether or not there is a constitutional "right" to subsistence (as to which see n. 14, *supra*), deprivations of benefits necessary for subsistence will receive closer constitutional scrutiny, under both the Due Process and Equal Protection clauses, than will deprivations of less essential forms of governmental largesse.

[19] See Department of Health, Education, and Welfare, Report on Money Payments to Recipients of Special Types of Public Assistance, Table 4 (NCSS Report D–4, 1967).

Nor is the distinction upon which the deprivation is here based—the distinction between large and small families—one which readily commends itself as a basis for determining which children are to have support approximating subsistence and which are not. Indeed, governmental discrimination between children on the basis of a factor over which they have no control—the number of their brothers and sisters—bears some resemblance to the classification between legitimate and illegitimate children which we condemned as a violation of the Equal Protection Clause in *Levy* v. *Louisiana*, 391 U.S. 69 (1968).

The asserted state interests in the maintenance of the maximum grant regulation, on the other hand, are hardly clear. In the early stages of this litigation, the State attempted to rationalize the maximum grant regulation on the theory that it was merely a device to conserve state funds, in the language of the answer, "a legitimate way of allocating the State's limited resources available for AFDC assistance." Indeed, the initial opinion of the District Court concluded that the sole reason for the regulation, as revealed by the record, was "to fit the total needs of the State's dependent children, as measured by the State's standards of their subsistence requirements, into an inadequate State appropriation." 297 F. Supp., at 458. The District Court quite properly rejected this asserted justification, for "[t]he saving of welfare costs cannot justify an otherwise invidious classification." *Shapiro* v. *Thompson, supra*, at 633. See *Goldberg* v. *Kelly, supra*, at—.

In post-trial proceedings in the District Court, and in briefs to this court, the State apparently abandoned reliance on the fiscal justification. In its place, there have now appeared several different rationales for the maximum grant regulation, prominent among them being those relied upon by the majority—the notions that imposition of the maximum serves as an incentive to welfare recipients to find and maintain employment and provides a semblance of equality with persons earning a minimum wage.

With regard to the latter, Maryland has urged that the maximum grant regulation serves to maintain a rough equality between wage earning families and AFDC families, thereby increasing the political support for—or perhaps reducing the opposition to—the AFDC program. It is questionable whether the Court really relies on this ground, especially when in many States the prescribed family maximum bears no such relation to the minimum wage.[19] But the Court does not indicate that a different result might obtain in other cases. Indeed, whether elimination of the maximum would produce welfare incomes out of line with other incomes in Maryland is itself open to question on this record.[20] It is true that government in the United States, unlike certain other countries, has not chosen to make public aid available to assist families generally in raising their children. Rather, in this case Maryland, with the encouragement and assistance of the Federal Government, has elected to provide assistance at a subsistence level for those in particular need—the aged, the blind, the infirm, and the unemployed and unemployable, and their children. The only question presented here is whether, having once undertaken such a program, the State may arbitrarily select from among the concededly eligible those to whom it will provide benefits. And it is too late to argue that political expediency will sustain discrimination not otherwise supportable. Cf. *Cooper* v. *Aaron*, 358 U.S. 1 (1958).

Vital to the employment-incentive basis found by the Court to sustain the regulation is, of course, the supposition that an appreciable number of AFDC recipients are in fact employable. For it is perfectly obvious that limitations upon assistance cannot reasonably operate as a work incentive with regard to those who cannot work or who cannot be expected to work. In this connection, Maryland candidly notes that "only a very small percentage of the total universe of welfare receipients are employable." The State, however, urges us to ignore the "total universe" and to concentrate attention instead upon the heads of AFDC families. Yet the very purpose of the AFDC program since its inception has been to provide assistance for dependent *children*. The State's position is thus that the State may deprive certain needy children of assistance to which they would otherwise be entitled in order to provide an arguable work-incentive for their parents. But the State may not wield its economic whip in this fashion when the effect is to cause a deprivation to needy dependent children in order to correct an arguable fault of their parents. Cf. *Levy* v. *Louisiana, supra; King* v. *Smith, supra*, at 334–336 (DOUGLAS, J., concurring); *Doe* v. *Shapiro*, 302 F. Supp. 761 (D. C. D. Conn.) 1969), appeal dismissed, 396 U. S. 488 (1970).

Even if the invitation of the State to focus upon the heads of AFDC families is accepted, the minimum rationality of the maximum grant regulation is hard to discern. The District Court found that of Maryland's more than 32,000 AFDC families, only about 116 could be classified as having employable members, and, of these, the number to which the maximum grant regulation was applicable is not disclosed by the record. The State objects that this figure includes only families in which the father is unemployed and fails to take account of families in which an employable mother is the head of the household. At the same time, however, the State itself has recognized that the vast proportion of these mothers are in fact unemployable because they are mentally or physically incapacitated, because they have no marketable skills, or, most prominently, because the best interests of the children dictate that the mother remain in the home.[21]

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[20] The State of Maryland has long spoken with at least two voices on the issue of the maximum grant regulation. The Department of Public Welfare has taken the position, over a number of years, that the regulation should be abolished and has made several proposals to that effect. In so doing, the Department has taken the position that its proposals would not set welfare benefits out of line with household incomes throughout the State. See, *e.g.*, Minutes of State Board of Public Welfare Meeting, September 26, 1958, printed in the Appendix in this case, at 130–132.

[21] Indeed, Rule 200 IX A(2)(b)(5) of the Manual of the Maryland State Department

Thus, it is clear, although the record does not disclose precise figures, that the total number of "employable" mothers is but a fraction of the total number of AFDC mothers. Furthermore, the record is silent as to what proportion of large families subject to the maximum have "employable" mothers. Indeed, one must assume that the presence of the mother in the home can be less easily dispensed with in the case of large families, particularly where small children are involved and alternative provisions for their care are accordingly more difficult to arrange. In short, not only has the State failed to establish that there is a substantial or even a significant proportion of AFDC heads of households as to whom the maximum grant regulation arguably serves as a viable and logical work incentive, but it is also indisputable that the regulation at best is drastically *over-inclusive* since it applies with equal vigor to a very substantial number of persons who like appellees are completely disabled from working.

Finally, it should be noted that, to the extent there is a legitimate state interest in encouraging heads of AFDC households to find employment, application of the maximum grant regulation is also grossly *under-inclusive* because it singles out and affects only large families. No reason is suggested why this particular group should be carved out for the purpose of having unusually harsh "work incentives" imposed upon them. Not only has the State selected for special treatment a small group from among similarly-situated families, but it has done so on a basis—family size—which bears no relation to the evil that the State claims the regulation was designed to correct. There is simply no indication whatever that heads of large families, as opposed to heads of small families, are particularly prone to refuse to seek or to maintain employment.

The State has presented other arguments to support the regulation. However, they are not dealt with specifically by the Court, and the reason is not difficult to discern. The Court has picked the strongest available; the others suffer from similar and greater defects.[22] Moreover, it is relevant to note that both Congress and the State have adopted other measures which deal specifically with exactly those interests the State contends are advanced by the maximum grant regulation. Thus, for example, employable AFDC recipients are required to seek employment through the congressionally established Work Incentive Program which provides an elaborate system of counseling, training, and incentive payments for heads of AFDC families. See generally 42 U.S.C. §§ 630–644.[23]

The existence of these alternatives does not, of course, conclusively establish the invalidity of the maximum grant regulation. It is certainly relevant, however, in appraising the overall interest of the State in the maintenance of the regulation.

In the final analysis, Maryland has set up an AFDC program structured to calculate and pay the minimum standard of need to dependent children. Having set up that program, however, the State denies some of those needy children the minimum subsistence standard of living, and it does so on the wholly arbitrary basis that they happen to be members of large families. One need not speculate too far on the actual reason for the regulation, for in the early stages of this litigation the State virtually conceded that it set out to limit the total cost of the program along the path of least resistance. Now, however, we are told that other rationales can be manufactured to support the regulation and to sustain it against a fundamental constitutional challenge.

However, these asserted state interests, which are not insignificant in themselves, are advanced either not at all or by complete accident by the maximum grant regulation. Clearly they could be served by measures far less destructive of the individual interests at stake. Moreover, the device assertly chosen to further them is at one and the same time both grossly underinclusive—because it does not apply at all to a much larger class in an equal position—and grossly overinclusive—because it applies so strongly against a substantial class as to which it can rationally serve no end. Were this a case of pure business regulation, these defects would place it beyond what has heretofore seemed a borderline case, see *e.g., Railway Express Agency, Inc.* v. *New York,* 336 U.S. 106 (1949), and I do not believe that the regulation can be sustained even under the Court's "reasonableness" test.

In any event, it cannot suffice merely to invoke the spectre of the past and to recite from *Lindsley* v. *Natural Carbonic Gas Co.* and *Williamson* v. *Lee Optical Co.* to decide the case. Appellees are not a gas company or an optical dispenser; they are needy dependent children and families who are discriminated against by the State. The basis of that discrimination—the classification of individuals into large and small families—is too arbitrary and too unconnected to the asserted rationale, the impact on those discriminated against—the denial of even a subsistence existence—too great, and the supposed interests served too contrived and attenuated to meet the requirements of the Constitution. In my view Maryland's maximum grant regulation is invalid under the Equal Protection Clause of the Fourteenth Amendment.

I would affirm the judgment of the District Court.

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of Social Services prohibits the referral for employment of AFDC mothers who are needed in the home. And the unsuitability of many AFDC mothers has been well chronicalized in Maryland Department of Social Services, Profile of Caseloads, Research Report No. 5, at 6 (1969). See also Carter, The Employment Potential of AFDC Mothers, 6 Welfare in Review, No. 4, at 4 (1968).

[22] Thus, the State cannot single out a miniscule proportion of the total number of families in the State as in need of birth control incentives. Not only is the classification effected by the regulation totally underinclusive if this is its rationale, but it also arbitrarily punishes children for factors beyond their control, and overinclusively applies to families like appellees' that were already large before it became necessary to seek assistance. For similar reasons, the argument that the regulation serves as a disincentive to desertion does not stand scrutiny.

[23] Likewise, the State, with the encouragement of Congress, see 42 U.S.C. §§ 602 (a) (21), 610, has developed extensive statutory provisions to deal specifically with the problem of parental desertion. See generally 3 Md. Code Ann., Art. 27, §§ 88–96. And Congress has mandated, with respect to family planning, that the States provide services to AFDC recipients with the objective of "preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life." 42 U.S.C. § 602 (a) (15).

WIDE SUPPORT FOR FOREIGN BANK BILL

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, H.R. 15073, the bill to control the use of foreign secret bank accounts for illegal purposes, was favorably reported unanimously from the Banking and Currency Committee.

Strong support for this important bill has come from all over the country. The Longview Daily News, one of Texas' finer newspapers, printed an editorial on March 3, 1970, calling attention to the bill's wide support.

The editorial follows:

PATMAN BILL IS FAVORED

U.S. Rep. Wright Patman, First Texas District, has received editorial support from The New York Times for his bill designed to circumvent foreign secrecy barriers in matters affecting banking and securities, taxes and international trade.

Congressman Patman, who is chairman of the House Banking Committee, thinks there is "a billion-dollar leak in the U.S. Ship of State," through the medium of secret foreign bank accounts. "So important is this device as a prime tool of organized crime and also as a heavy drain on our international balance of payments," says Rep. Patman, "that strong sentiment is building up around the country to support my bill (H.R. 15073) to control the use of secret foreign bank accounts."

An example of the support being given the Patman measure is reprinted below from The New York Times of Feb. 26, where is appeared under the heading "Errors and Omissions":

The Department of Commerce reports that the United States sustained a $7-billion deficit in its balance of payments in 1969—the biggest liquidity deficit on record. There is one huge and innocent looking item in those figures—"errors and omissions." During the first three-quarters of last year these errors and omissions totaled $3.2 billion of funds leaving the United States.

There is no record of where this money went or what it was used for. Much of it doubtless went into purchases of Eurodollars. But Robert Morgenthau, the former United States Attorney for the Southern District of New York and newly appointed Deputy Mayor, charges that much of this unrecorded outflow of money is going into secret Swiss numbered bank accounts and into other bank accounts abroad, where it is used to evade United States taxation and security regulations.

The American underworld increasingly uses secret accounts abroad to hide from the tax authorities and the police. However, as Mr. Morgenthau stated before the House Banking Committee, foreign bank accounts are being used "to an ever-increasing extent . . . by persons holding positions of responsibility and power in the business and financial worlds to cheat on taxes, to trade in securities in violation of our securities laws, to trade illegally in gold, to perpetrate corporate and other frauds and to hide the fruits of other white-collar crimes."

To control crime via foreign bank accounts Chairman Wright Patman of the House Banking Committee—with the help of the United States Treasury, the Internal Revenue Service, and the Justice Department—has produced a bill designed to circumvent foreign secrecy barriers. The bill would require American banks to maintain records on foreign transactions by their depositors and to make photocopies of checks or other transfer instruments.

The bill would also require persons involved in certain types of international financial transactions to file reports on their activities. This reporting requirement is essential if law violators using foreign accounts are to be caught—and others scared away from such practices. Failures to report have been extremely important in getting convictions against crooked financiers, businessmen, and labor racketeers here at home.

Curiously enough, however, the Treasury

has at the last minute withdrawn its support of the Patman bill. Treasury spokesmen explain that the Administration line has changed and the White House confirms that this is so. The Treasury says that it now has a task force working on the problem.

The switch in the Administration's position on the Patman bill came after a meeting between Treasury officials and representatives of the biggest American banks. The banks took the position that the required record-keeping would impose a great hardship on them and would interfere with United States commerce. High financial stakes are involved for United States banks. The flows of money abroad and back to this country are enormous. In 1968 purchases of American stocks and bonds by Swiss banks and brokers totalled $6.3 billion, and sales of United States securities amounted to $5 billion.

Anyone who thinks this is a business limited to the gnomes of Zurich does not know the facts. American banks have migrated abroad and are major competitors of Swiss, German, British and other foreign banks in their own territories. Six United States banks now have branches in Switzerland and insist that they have the right to secrecy, like Swiss banks, under Swiss law. In Nassau, eighteen branches of American banks have already been opened.

This is a dangerous and uncontrolled situation that should be curbed through passage of the Patman bill before it gets worse. Instantaneous worldwide communications and the rapid internationalization of business and finance are threatening to lead to a growth of crime and decay of public and business morality of huge proportions.

The Administration should get behind the legislation it helped to draft. And United States banks that are opposing this legislation would be wise to reconsider the ultimate effect on their own reputations and business if they become parties, whether out of ignorance or out of greed, to the growth of white-collar crime.

Mr. Speaker, a rule for the consideration of this bill is expected soon. If granted efforts will be made to get the bill considered on this floor within the next 2 or 3 weeks.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. In 1967 the United States produced 2,483,840,000 pounds of carbon black. This represented over 60 percent of the world total.

THE TIDE OF JUNK MAIL RISES

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, the public is being buried under an ever-growing tide of junk mail. Yet the President has just proposed that the public pay an increased share of the bill for the pleasure of receiving this unwanted glut.

In his message sent to Congress this past Saturday discussing a pay increase for postal and other Federal employees, President Nixon asked for an increase in first-class postal rates from 6 cents to 10 cents, a jump of 66⅔ percent. At the same time, the President asked for only a 5-percent increase in the rates for third-class bulk mail, which is commonly referred to as "junk mail," and a 15-percent rise in fourth-class parcel post rates.

Mr. Speaker, what we do not need is more clutter in our mailboxes. Pay increases for postal employees and reduction of the postal deficit are both long overdue. But to pay for these items by taxing the public while lending preferential rates to large bulk mailers is a betrayal of the public trust granted to the Post Office.

Milton Friedman, the Chicago economist, argued recently, in a letter to the Wall Street Journal, that the present provision restricting private enterprise from carrying first-class mail, unless it also carries full U.S. postage, be repealed. His suggestion would strip the U.S. Post Office of its best-paying class of service but his point is well made. Very quickly private enterprise would demonstrate which categories of mail are more than paying their way.

Mr. Speaker, once again the President has made a proposal which will favor large business interests to the detriment of the average consumer. The Congress, in its desire to provide an immediate and fair pay hike for postal workers, must not allow itself to be stampeded into increasing first-class postal rates, at least not to the extent the President has proposed. Instead, we must demand that the senders of junk mail foot their share of the bill. This would not only be fair but might help to stem the tide that threatens to drown us all.

BOMBINGS MUST BE STOPPED

(Mr. QUILLEN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. QUILLEN. Mr. Speaker, I strongly condemn the recent bombings which have resulted in deaths of several persons and the destruction of many thousands of dollars worth of property in this country.

For this reason, I have joined a number of my colleagues in the House in sponsoring legislation, which I believe is appropriate in bringing the problem of misuse of explosives under control.

I feel Congress, if these senseless and most outrageous bombings are to be thwarted, must provide the legal groundwork under which our courts can operate.

The bombings, which have ravaged this Nation in recent weeks and brought about a reign of terror over some parts of the country, must be terminated immediately.

Mr. Speaker, this legislation must be dealt with on an emergency basis. It has become apparent to me that Federal intervention is the only conceivable way in which to bring the problem under control. We must see that legislation is enacted to effectively handle the problem.

The bill deserves the immediate consideration of Congress if we are to put a stop to the rash of bombings we have witnessed.

INTER-PARLIAMENTARY UNION ACTS ON STUDENT UNREST

(Mr. McCLORY asked and was given given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, it was my privilege as a U.S. delegate to attend the 58th Inter-Parliamentary Union Conference held last week in Monaco. At this meeting, the Educational, Scientific, and Cultural Committee upon which I serve as vice chairman, received a report from Kanichi Nishimura, a member of the House of Councillors of Japan—corresponding to our Senate—on the broad subject of "The Student in the University and Society of Today."

Senator Nishimura's report is the most comprehensive study of this subject which has come to my attention. It impressed those Parliamentary Representatives attending the recent IPU Conference—Representatives from Eastern European countries, and from the Western free world, as well as from the developing nations.

I inserted the text of Senator Nishimura's report in the CONGRESSIONAL RECORD issues of March 16 and March 17, 1970, for the edification of my colleagues as well as of the general public.

Subsequently, I composed a draft resolution in attempting to identify this perplexing and worldwide problem and with a view toward suggesting some steps which we as lawmakers might take. The draft resolution was presented at the Inter-Parliamentary Union Conference. The chairman of the committee, Madame Hedwig Meerman of West Germany, named a five-man Drafting Committee of which I became the chairman, and which also included: Mr. David Anderson, member of the Canadian House of Commons; Mr. Mohta of the Indian Parliament; Mr. van Dik, member of the Lower House of the Dutch Parliament; and Mr. Ginting from the Indonesian Parliament. We were assisted in our work by Secretary-General Nishimiya of the Japanese Parliament. The result of our efforts was a resolution patterned after the draft which I had prepared and which was adopted unanimously by the Educational, Scientific, and Cultural Committee of the Inter-Parliamentary Union.

I am pleased to include a copy of this resolution for the benefit of my colleagues who have a particular concern in the problem of student unrest:

THE STUDENT IN THE UNIVERSITY AND SOCIETY OF TODAY

The 58th Inter-Parliamentary Conference:

Noting that student unrest in the universities of many nations has become a worldwide phenomenon of increasing concern,

Aware that the problems of students and reform of higher education systems have individual characteristics in each country and university but, at the same time, possess many aspects which are common to all countries,

Aware also that student unrest does not exist in a vacuum but reflects a deep social unrest affecting much of our world today,

Dedicated to the development of institu-

tions and effective parliaments which enable necessary changes in society to be brought about through peaceful and democratic processes,

Recognizing that the United Nations General Assembly has designated 1970 as International Education Year and as a time to take stock of the situation with respect to education and training in their countries:

1. Encourages universities to take into account the aspirations of young people to restudy their role in society and in their educational institutions and to insure that their studies and requirements are relevant to the problems and needs of a changing world;

2. Urges all parliamentarians to make individual efforts through whatever means possible to maintain lines of communication with youth, to seek their views and to encourage their constructive participation in solving the problems of society;

3. Requests National Groups, through their Parliaments and political parties, to seek new ways to get youth involved in significant participation, consistent with democratic processes, in the solution of local, national and international problems;

4. Considers education a fundamental human right which carries a corresponding responsibility to insure to others their individual rights to an education;

5. Condemns violence and destruction in the expression of thoughts and views;

6. Earnestly requests all Governments to:

(a) Carry out fundamental studies, not only of the university systems but of their educational structures in general, to enable them to cope with the remarkable changes in society and possible future developments;

(b) Urge all sectors of the academic community to work together in the exercise of their authority and responsibility to reach more effective structures for the administration of their institutions;

(c) Encourage co-operation between universities of the various nations;

(d) Co-operate in the efforts of international organization, including the United Nations and Unesco, to improve educational systems and opportunities for youth throughout the world;

7. Appeals to all National Groups to participate actively in the observance of International Education Year during 1970.

Mr. Speaker, in the course of the next few days I expect to transmit to the chairman of our U.S. delegation, Senator SPARKMAN, of Alabama, a full report of the activities of the Educational, Scientific, and Cultural Committee for inclusion in his report to the Congress of our last Inter-Parliamentary Union meeting.

IMPROVED MEDICAL CARE FOR VETERANS

(Mr. ADAIR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ADAIR. Mr. Speaker, I am pleased to applaud the intiative of the President, the Administrator of Veterans' Affairs, and those in Congress who have worked to improve medical care for veterans.

President Nixon's announcement of approval of $50 million in additional funds in the Veterans' Administration's medical care budget for fiscal year 1971 is welcome news. So is his proposal to add $15 million to this year's budget.

This new money will be used for dental care for Vietnam veterans, for additional staffing for spinal cord injuries, to purchase much needed operating equipment, and to absorb rising drug and medical costs.

These funds will boost VA's operating funds to $210 million more than last fiscal year.

The additional $50 million will help provide larger staffs to serve existing specialized medical programs, especially for the care of our wounded Vietnam veterans.

The funds also help make available more nursing care beds for our older veterans.

The action by President Nixon is evidence of his intent to provide the utmost in service to those gallant men and women who have served this great Nation.

MEDICAL STANDARDS FOR BLACK LUNG BENEFITS

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, there follows the text of a letter addressed to me from Robert M. Ball, Commissioner of Social Security, concerning the medical standards to determine payment of black lung benefits under title IV of the Federal Coal Mine Health and Safety Act. The proposed standards are being circulated for comment, and I believe their publication in the CONGRESSIONAL RECORD will facilitate suggestions prior to these regulations being frozen in final form:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., April 3, 1970.

Hon. KEN HECHLER,
House of Representatives,
Washington, D.C.

DEAR MR. HECHLER: Enclosed is an advance copy of the regulations being promulgated under Section 411(b) of Title IV of the Federal Coal Mine Health and Safety Act.

These regulations prescribe medical standards for determining whether a miner is totally disabled or his death was due to pneumoconiosis for purposes of payment of black lung benefits under this Act.

The standards have been worked out jointly by the Social Security Administration and the Public Health Service, after consultation and discussion with a number of advisory groups and individuals, including medical specialists and representatives of employer and employee interests in the industry. Upon forthcoming publication of these regulations in the Federal Register, suggestions for modifications or additions from interested parties will be considered on the basis of comments received by the Commissioner of Social Security by May 15, 1970.

Additional regulations for the implementation of the benefit provisions in Part B, Title IV of the Act will be published soon.

Sincerely yours,

ROBERT M. BALL,
Commissioner of Social Security.

TITLE 20—EMPLOYEES' BENEFITS

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE [REGULATIONS NO. 10 ADDED]

PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV—BLACK LUNG BENEFITS (1969 ———)

Title IV, Part B of the Federal Coal Mine Health and Safety Act of 1969, Public Law 91-173, provides for payment of benefits to coal miners who have contracted pneumoconiosis from work in the Nation's underground coal mines and are disabled thereby, and to the widows of such miners. Section 411(b) of the Act provides that the Secretary of Health, Education, and Welfare shall by regulation prescribe standards for determining whether a miner is totally disabled due to pneumoconiosis and for determining whether the death of a miner was due to pneumoconiosis. There are, accordingly, promulgated below, Regulations No. 10 of the Social Security Administration, 20 CFR Part 410, which at the present time contain two subparts: Subpart A (Introduction, General Provisions, and Definitions) and Subpart D (Total Disability or Death Due to Pneumoconiosis).

Because of the provision in section 411(b) of the Act requiring that such standards be promulgated and published in the Federal Register not later than the end of the third month following the month in which Title IV was enacted, the Secretary of Health, Education, and Welfare finds that notice of rulemaking and public procedure thereon are impracticable. Therefore, these regulations will be effective upon their filing with the Office of the Federal Register.

Consideration will be given, however, to any data, views, or arguments pertaining to said regulations for the purpose of suggesting modifications or additions thereto, which are submitted in writing in triplicate not later than May 15, 1970, with the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201.

SUBPART A—INTRODUCTION, GENERAL PROVISIONS, AND DEFINITIONS

Sec.
410.101 Introduction
410.110 General definitions and use of terms.

§ 410.101 *Introduction*

The regulations in this Part 410 (Regulations No. 10 of the Social Security Administration), relate to the provisions of Part B (Black Lung Benefits) of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as enacted December 30, 1969, and as may hereafter be amended. The regulations in this part are divided into the following subparts according to subject content:

(a) Subpart A contains provisions relating to definitions and the use of terms.

(b) Subpart B relates to the requirements for benefits, filing of claims for benefits, and duration of benefits.

(c) Subpart C contains provisions regarding dependents of entitled miners and widows.

(d) Subpart D provides standards for determining total disability and death due to pneumoconiosis.

(e) Subpart E relates to the payment of benefits, benefit rates, adjustment of benefits, and overpayments and underpayments.

(f) Subpart F relates to procedures for determinations and review of determinations with respect to benefits, and representation of parties.

§ 410.110 *General definitions and use of terms.*

For purposes of this part, except where the context clearly indicates otherwise, the following definitions apply:

(a) "The Act," means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173), as enacted December 30, 1969, and as may hereafter be amended.

(b) "Benefit" means the black lung benefit provided under Part B of Title IV of the Act to coal miners and to surviving widows of miners.

(c) "Secretary" means the Secretary of Health, Education, and Welfare.

(d) "Commissioner" means the Commissioner of Social Security.

(e) "Administration" means the Social Security Administration in the Department of Health, Education, and Welfare.

(f) "Appeals Council" means the Appeals Council of the Bureau of Hearings and Appeals in the Social Security Administration or such member or members thereof as may be designated by the Chairman.

(g) "Hearing Examiner" means a hearing examiner in the Bureau of Hearings and Appeals of the Social Security Administration.

(h) "Coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities.

(i) "Underground coal mine" means a coal mine in which the earth and other materials which lie above the natural deposit of coal (overburden) is not removed in mining. In addition to the natural deposits of coal in the earth, the underground mine includes all land, buildings and equipment appurtenant thereto.

(j) "Miner" or "coal miner" means any individual who is working or has worked as an employee in an underground coal mine, whether he works under the surface performing functions in extracting the coal or above the surface at the mine preparing the coal so extracted.

(k) "The Nation's underground coal mines" comprise all underground coal mines as defined in paragraph (i) of this section located in a State as defined in paragraph (l) of this section.

(l) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and prior to January 3, 1959, and August 21, 1959, respectively, the Territories of Alaska and Hawaii.

(m) "Employee" means an individual in a legal relationship (between the person for whom he performs services and himself) of employer and employee under the usual common-law rules.

(1) Generally, such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the means by which that result is accomplished; that is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the results, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common-law rules.

(2) Whether the relationship of employer and employee exists under the usual common-law rules will in doubtful cases be determined upon an examination of the particular facts of each case.

(n) The "Social Security Act" means the Social Security Act (49 Stat. 620) as amended from time to time.

(o) "Pneumoconiosis" means a chronic dust disease of the lung arising out of employment in the Nation's underground coal mines, and includes anthacosis, silicosis, or anthracosilicosis arising out of such employment.

(p) A "workmen's compensation law" means a law providing for payment of compensation to an employee (and his dependents) for injury (including occupational disease) or death suffered in connection with his employment.

(q) Masculine gender includes the feminine, and the singular includes the plural.

SUBPART D—TOTAL DISABILITY OR DEATH DUE TO PNEUMOCONIOSIS

Sec.

§ 410.401 Basis for total disability standards.

This subpart establishes the standards for determining whether a coal miner is totally disabled due to, or died from, pneumoconiosis, as defined in § 410.110(o) of this part. The standards prescribed herein for total disability are, so far as applicable, the same as or closely comparable to those applied to determine the existence and continuance of a disability for purposes of Title II of the Social Security Act, which are contained in Subpart P of Part 404 of this chapter.

§ 410.402. *Total disability defined.*

A miner is under a total disability due to pneumoconiosis if:

(a) He is suffering or suffered from a chronic dust disease of the lung which:

(1) When diagnosed by chest roentgenogram, yields one or more large opacities (greater than one center in diameter) and would be classified in Category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization; or

(2) When diagnosed by biopsy or autopsy, yields massive lesions in the lung, that is, shows the existence of progressive massive fibrosis; or

(3) When established by diagnosis by means other than those specified in (1) and (2) above, would be a condition which could reasonably be expected to yield the results described in (1) or (2) above had diagnosis been made as therein prescribed: *provided,* however, that any diagnosis made under this clause shall be in accordance with generally accepted medical procedures for diagnosing pneumoconiosis.

(b) He is unable to engage in any substantial gainful activity by reason of pneumoconiosis, which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

Where the requirements of paragraph (a) of this section are met, the finding that a miner is under a total disability is established by irrebuttable presumption.

§ 410.403 *Evaluating total disability under § 410.402(b).*

(a) Total disability may not be found for purposes of this part unless pneumoconiosis is the impairment involved. Whether or not pneumoconiosis in a particular case constitutes a disability, as defined in § 410.402(b), is determined from all the facts of that case. Primary consideration is given to the severity of the individual's pneumoconiosis. Consideration is also given to such other factors as the individual's age, education, and work experience. Medical considerations alone can, except where other evidence rebuts a finding of "disability," e.g., the individual is actually engaging in substantial gainful activity, justify a finding that the individual is under a disability where his impairment is one that meets the duration requirement in § 410.402 (b), and is listed in the appendix to this subpart or the Secretary determines his impairment to be medically the equivalent of a listed impairment (see § 410.405).

(b) Pneumoconiosis which constitutes neither a listed impairment nor the medical equivalent thereof likewise may be found disabling if it does, in fact, prevent the individual from engaging in any substantial gainful activity. Such an individual, however, shall be determined to be under a disability only if his pneumoconiosis is the primary reason for his inability to engage in substantial gainful activity. In any such case it must be established that the individual has a respiratory impairment because of pneumoconiosis, demonstrated on the basis of an MVV and an FEV_1 which are equal to or less than the values specified in the following table or by a medically equivalent test (see § 410.405):

Height (inches)	MVV (MBC) equal to or less than L./Min.	FEV_1 equal to or less than L.
57 or less	52	1.4
58	53	1.4
59	54	1.4
60	55	1.5
61	56	1.5
62	57	1.5
63	58	1.5
64	59	1.6
65	60	1.6
66	61	1.6
67	62	1.7
68	63	1.7
69	64	1.8
70	65	1.8
71	66	1.8
72	67	1.9
73 or more	68	1.9

It must be further established that, because of such impairment, he is not only unable to do his previous work or work commensurate with his previous work in amount of earnings and utilization of capacities but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For the purposes of the preceding sentence, work "exists in the national economy" with respect to any individual, when such work exists in significant numbers either in the region where such individual lives or in several regions of the country. Thus, isolated jobs of a type that exist only in very limited number or in relatively few geographic locations shall not be considered to be "work which exists in the national economy" for purposes of determining whether an individual is under a disability; an individual is not denied benefits on the basis of the existence of such jobs. Accordingly, where an individual remains unemployed for a reason or reasons not due to his impairment but because he is unsuccessful in obtaining work he could do; or because work he could do does not exist in his local area; or because of the hiring practices of employers, technological changes in the industry in which he has worked, or cyclical economic conditions; or because there are no job openings for him or he would not actually be hired to do work he could otherwise perform, the individual

may not be considered under a disability as defined in § 410.402(b).

(c) Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of pneumoconiosis of the level of severity specified in paragraph (b) of this section and, considering his age, education, and vocational background is unable to engage in lighter work, such individual may be found to be under a disability. On the other hand, a different conclusion may be reached where it is found that such individual is working or has worked despite his impairment (except where such work is sporadic or is medically contraindicated) depending upon all the facts in the case. In addition, an individual who was doing heavy physical work at the time he suffered such impairment might not be considered unable to engage in any substantial gainful activity if the evidence shows that he has the training or past work experience which qualifies him for substantial gainful work in another occupation consistent with his impairment, either on a full-time or a reasonably regular part-time basis.

(d) When used in this section for evaluating "total disability," the term "age" refers to chronological age and the extent to which it affects the individual's capacity to engage in work in competition with others. An individual unemployed primarily because of age, however, shall not be deemed unable to engage in substantial gainful activity by reason of medical impairment.

(e) When used in this section for evaluating "total disability," the term "education" is used in the following sense: Education and training are factors in determining the employment capacity of an individual. Lack of formal schooling, however, is not necessarily proof that the individual is an uneducated person. The kinds of responsibilities he carried when working may indicate ability to do more than unskilled work, even though his formal education has been limited.

§ 410.404 *Evidence of pneumoconiosis.*

(a) A finding of the existence of pneumoconiosis may not be made in the absence of:

(1) A chest roentgenogram showing the existence of pneumoconiosis classified as Category 1, 2, 3, A, B, or C, according to the International Labor Organization (1958), International Labor Organization (1968), or Union Internationale Contra Cancer/Cincinnati (1968) Classifications of the Pneumoconioses (if the chest roentgenogram is classified as Category Z, it should be reclassified as Category O or Category 1 and only the latter accepted as evidence of pneumoconiosis); or

(2) An autopsy showing the existence of pneumoconiosis, or

(3) A biopsy (other than a needle biopsy) showing the existence of pneumoconiosis. Such biopsy would not be expected to be performed for the sole purpose of diagnosing pneumoconiosis. Where a biopsy is performed for other purposes, however (e.g., in connection with a lung resection), the report thereof will be considered in determining the existence of pneumoconiosis.

(b) The roentgenogram, to conform to accepted medical standards, should represent a posterior-anterior view of the chest, and such other views as the Administration may require, taken at a distance of 6 feet between the X-ray tube and the X-ray film on a 14 x 17 inch X-ray film.

(c) A report of autopsy or biopsy shall include a detailed gross (macroscopic) and microscopic description of the lungs or visualized portions of the lungs. If an operative procedure has been performed to obtain a portion of a lung, the evidence should include a copy of the operative note and the pathology report of the gross and microscopic examination of the surgical specimen.

If an autopsy has been performed the evidence should include a complete copy of the autopsy report.

§ 410.405 *Determining medical equivalence.*

(a) An individuals' impairment shall be determined to be medically the equivalent of an impairment listed in the appendix to this subject only of the medical findings with respect thereto are at least equivalent in severity and duration to the listed findings of the listed impairment.

(b) Any decision made under §§ 410.403(a) and 410.407(a) as to whether an individual's impairment is medically the equivalent of an impairment listed in the appendix to this subpart, shall be based on medical evidence demonstrated by medically acceptable clinical and laboratory diagnostic techniques, including a medical judgment furnished by one or more physicians designated by the Secretary, relative to the question of medical equivalence.

(c) Any decision as to whether a medical test is medically equivalent to the test decribed in § 410.403(b) shall be based on appropriate medical evidence, including a judgment furnished by one or more physicians designated by the Secretary, relative to the question of the medical equivalence of such test.

(d) A "physician designated by the Secretary" shall include a physician in the employ of or engaged for this purpose by the Administration, the Railroad Retirement Board, or a State agency authorized to make determinations of disability.

§ 410.406 *Evidence of origin of pneumoconiosis.*

(a) If a miner was employed for 10 years or more in the Nation's underground coal mines and is suffering or has suffered from pneumoconiosis, it will be presumed, in the absence of evidence to the contrary, that the pneumoconiosis arose out of such employment.

(b) In any other case, a miner suffering or who has suffered from pneumoconiosis must submit the evidence necessary to establish that the pneumoconiosis arose out of employment in the Nation's underground coal mines.

§ 410.407 *Cessation of disability.*

(a) Where it has been determined that a miner is totally disabled under § 410.402(b), such disability shall be found to have ceased in the month in which his impairment, as established by the medical evidence, is no longer of such severity as to prevent him from engaging in substantial gainful activity.

(b) Except where a finding is made as specified in paragraph (a) of this section which results in an earlier month of cessation, if a miner is requested to furnish necessary medical or other evidence or to present himself for a necessary medical examination by a date specified in the request and the miner fails to comply with such request, the disability will be found to have ceased in the month within which the date for compliance falls, unless the Secretary determines that there is a good cause for such failure.

§ 410.415 *Death due to pneumoconiosis.*

(a) A miner's death will be determined to have been due to pneumoconiosis if the miner suffered from a chronic dust disease of the lung which meets the requirements of §410.402(a); or

(b) If a deceased miner was employed for 10 years or more in the Nation's underground coal mines and died from a respirable disease, it will be presumed, in the absence of evidence to the contrary, that his death was due to pneumoconiosis. Death will be found due to a respirable disease when death is ascribed to a chronic dust disease, or to another chronic disease of the lung. Death will not be found due to a respirable disease in those cases in which the disease reported does not suggest a reasonable possibility that death was, in fact, due to pneumoconiosis (e.g., cancer of the lung, disease due to trauma, pulmonary emboli); or

(c) Under circumstances other than those in paragraphs (a) or (b) of this section, the claimant must submit the evidence necessary to establish that the miner's death was due to pneumoconiosis and that the pneumoconiosis arose out of employment in the Nation's underground coal mines.

§ 404.421 *Provisions incorporated by reference.*

The standards and procedures set out in sections 404.1501(c), 404.1507, 404.1523, 404.1524, 404.1525, 404.1526, 404.1527, 404.1528, 404.1529, 404.1530, 404.1531, 404.1532, 404.1533, and 404.1534 of Part 404 of this chapter apply, so far as applicable, to claims for black lung benefits, except as otherwise provided in this subpart.

APPENDIX

A miner with pneumoconiosis, as evidenced in §410.404 of this part, plus one of the following sets of medical specifications, may be found to be under a total disability, in the absence of evidence rebutting such finding:

(1) Airway obstruction demonstrated on spirogram by MVW and FEV, equal to or less than the values specified in the following table:

Height (inches)	MVV (MBC) equal to or less than L./Min.	FEV_1 equal to or less than L.
57 or less	32	1.0
58	33	1.0
59	34	1.0
60	35	1.1
61	36	1.1
62	37	1.1
63	38	1.1
64	39	1.2
65	40	1.2
66	41	1.2
67	42	1.3
68	43	1.3
69	44	1.3
70	45	1.4
71	46	1.4
72	47	1.4
73 or more	48	1.4

(2) Total vital capacity equal to or less than the values specified in the following table:

Height (inches)	*V.C. equal to or less than* (L.)
57 or less	1.2
58	1.3
59	1.3
60	1.4
61	1.4
62	1.5
63	1.5
64	1.6
65	1.6
66	1.7
67	1.7
68	1.8
69	1.8
70	1.9
71	1.9
72	2.0
73 or more	2.0

or

(3) Diffusing capacity of the lungs for carbon monoxide less than 6 ml./mm. Hg./min. (steady-state methods) or less than 9

ml./mm. Hg./min. (single-breath methods) or less than 30% of predicted normal (all methods—actual value and predicted normal for the method used should be reported);
or

(4) Arterial oxygen saturation at rest and simultaneously determined arterial p CO_2 equal to, or less than, the values specified in the following table:

	Percent
30 mm. Hg. or below	93
31 mm. Hg	93
32 mm. Hg	92
33 mm. Hg	92
34 mm. Hg	91
35 mm. Hg	91
36 mm. Hg	90
37 mm. Hg	89
38 mm. Hg	88
39 mm. Hg	88
40 mm. Hg. or above	87

(5) Cor pulmonale with right-sided congestive failure as evidenced by peripheral edema and liver enlargement, with:

(A) Right ventricular enlargement or outflow tract prominence on X-ray or fluroscopy; or

(B) ECG showing QRS duration less than 0.12 second and R of 5 mm. or more in V and R/S of 1.0 or more in V and transition zone (decreasing R/S) left of V.
or

(6) Congestive heart failure with signs of vascular congestion such as hepatomegaly or peripheral or pulmonary edema, with:

(A) Cardio-thoracic ratio of 55% or greater, or equivalent enlargement of the transverse diameter of the heart, as shown on teleroentgenogram (6-foot film); or

(B) Extension of the cardiac shadow (left ventricle) to the vertebral column on lateral chest roentgenogram and total of S in V or V_5 and R in V_5 or V_6 of 35 mm. or more on ECG.

Dated:

———— ————,
Commissioner of Social Security.

Approved:

———— ————,
Secretary of Health, Education, and Welfare.

AMENDING FEDERAL AID HIGHWAY ACT OF 1970

(Mr. FALLON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FALLON. Mr. Speaker, I am introducing today the Federal Aid Highway Act of 1970. This bill is in its present form a simple bill which extends the completion date for the Interstate System to 1978 and extends the authority for continuing the primary, secondary, and urban systems for 1972 and 1973. The far-reaching effects of this legislation as it will finally emerge, however, are not simple.

There are many subjects related to the highway program which will be explored in depth by the Committee on Public Works during hearings which are scheduled to begin on April 21 and extend over a considerable period of time. Some of these subjects may be appropriate to report out this year—some may not.

Some of the reports which were required to be completed under the 1968 Highway Act have not yet reached the Congress. They are expected to contain information essential to the proper drafting of final legislation. Likewise the 1970 estimate of the cost to complete the Interstate System has not yet reached the Congress; therefore, the bill I am introducing today includes amounts which at this date reflect the best information we have available.

The committee will pay particularly close attention to a number of programs which have been started under previous highway legislation and which should be examined as to their effectiveness. Numbered in this group are the safety, beautification, and topics programs. Newer items such as a bridge replacement program and an examination of the results of the functional classification studies will also receive considerable attention.

There were some elements of the 1969 Highway Act which will again be taken up by the committee. You will recall, Mr. Speaker, that the House passed that legislation in the first session of this Congress but it was not acted upon by the other body. These elements include a study of the railroad-highway grade crossing problem and authorization for negotiations to be undertaken with the Canadian Government toward the paving of the Alaska Highway.

A realinement of the Federal-aid system will be examined along with the possibility of creating a new metropolitan system of Federal-aid highways. This latter may well involve a program of highway-oriented mass transit.

The committee will look into all of these items which I have mentioned, Mr. Speaker, although we will not confine ourselves to them alone. We will report out a good and a comprehensive highway bill this year which will have been evolved from detailed deliberations of all facets of the highway program.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. GREEN of Oregon (at the request of Mr. ULLMAN), for April 7 to 10, on account of official business.

Mr. GETTYS, for Tuesday, April 7, 1970, after 3:30 p.m., on account of official business.

Mr. HANNA (at the request of Mr. ALBERT), for today through April 14, 1970, on account of official business as delegate to Asian Development Bank meeting in Seoul, Korea.

Mr. VANDER JAGT (at the request of Mr. GERALD R. FORD), for today, on account of official business.

Mr. LENNON (at the request of Mr. ALBERT), for today and the rest of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SCHADEBERG, for 15 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. PUCINSKI for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. LANDGREBE), to revise and extend their remarks and to include extraneous matter to:)

Mr. CONTE, today, for 10 minutes.

Mr. HOGAN, today, for 5 minutes.

Mr. MACGREGOR, today, for 5 minutes.

(The following Members (at the request of Mr. DANIEL of Virginia) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. RARICK, for 20 minutes, today.

Mr. CULVER, for 60 minutes, on April 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SAYLOR, immediately following remarks of Dr. HALL on President's message on Veterans' medical care.

Mr. COLMER, immediately following the remarks of Mr. PERKINS today on the elementary and secondary education conference report.

Mr. ALBERT to extend his remarks immediately preceding vote on conference report on H.R. 514.

Mr. ROUDEBUSH (at the request of Mr. SCHADEBERG) following the special order of Mr. SCHADEBERG.

(The following Members (at the request of Mr. LANDGREBE), and to include extraneous matter:)

Mr. QUILLEN in five instances.
Mr. DERWINSKI in two instances.
Mr. PETTIS.
Mr. DUNCAN in two instances.
Mr. SPRINGER.
Mr. MIZE.
Mr. BRAY in three instances.
Mr. THOMPSON of Georgia.
Mr. BURTON of Utah in five instances.
Mr. GOLDWATER.
Mr. BROYHILL of Virginia in two instances.
Mr. SCHERLE in three instances.
Mr. KYL.
Mr. DEVINE.
Mr. HOSMER in two instances.
Mr. STEIGER of Wisconsin.
Mr. WYMAN in two instances.
Mr. COLLINS in four instances.
Mr. WHITEHURST.
Mr. STEIGER of Arizona in two instances.
Mr. MICHEL in two instances.
Mr. RHODES.
Mr. ESHLEMAN in two instances.
Mr. SCHWENGEL in three instances.
Mr. SMITH of New York.
Mr. MORSE.
Mr. NELSEN in two instances.
Mr. BROTZMAN.
Mr. MINSHALL in four instances.
Mr. ASHBROOK.
Mr. ZWACH.
Mr. BERRY.
Mr. SANDMAN.
Mr. HUNT.
Mr. BROWN of Michigan.
Mr. BROWN of Ohio.
Mr. ROUDEBUSH in 3 instances.
Mr. GUDE.
Mr. HALPERN.
Mr. EDWARDS of Alabama.
Mr. BUSH.
Mr. CRAMER.
Mr. GROSS.
Mr. MCCLORY.
Mr. QUIE.

(The following Members (at the re-

quest of Mr. DANIEL of Virginia) and to include extraneous matter:)

Mr. HAMILTON in 10 instances.
Mr. LONG of Maryland.
Mr. EDWARDS of California in three instances.
Mr. TEAGUE of Texas in six instances.
Mr. BOLAND.
Mr. NICHOLS in two instances.
Mr. MILLS.
Mr. WHITE in two instances.
Mr. RARICK in four instances.
Mr. GONZALEZ in two instances.
Mr. WRIGHT in two instances.
Mr. PATTEN.
Mr. HAWKINS in four instances.
Mr. HUNGATE in three instances.
Mr. FULTON of Tennessee in four instances.
Mr. ICHORD in two instances.
Mr. BROWN of California in five instances.
Mr. GALLAGHER in two instances.
Mr. CORMAN.
Mr. RIVERS in two instances.
Mr. FASCELL in two instances.
Mr. KASTENMEIER.
Mr. RYAN in three instances.
Mr. ANDERSON of California.
Mr. JONES of Tennessee.
Mr. PICKLE in five instances.
Mr. FRIEDEL in three instances.
Mr. KLUCZYNSKI.
Mr. FOUNTAIN in two instances.
Mr. CULVER.
Mr. CHARLES H. WILSON.
Mr. BYRNE of Pennsylvania.
Mr. DULSKI.
Mr. O'HARA.
Mr. FLOWERS in three instances.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on April 6, 1970, present to the President, for his approval, a bill of the House of the following title:

H.R. 16612. To amend the District of Columbia Bail Agency Act to provide additional funds for the District of Columbia Bail Agency for fiscal year 1970.

ADJOURNMENT

Mr. PUCINSKI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 7 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 8, 1970, 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:

1879. A communication from the President of the United States, transmitting amendments to the requests for appropriations transmitted in the budget for fiscal year 1971, to implement pollution abatement objectives (H. Doc. No. 91–300); to the Committee on Appropriations and ordered to be printed.

1880. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Commodity Credit Corporation, Department of Agriculture for the fiscal year ended June 30, 1969, pursuant to 31 U.S.C. 841 (H. Doc. No. 91–301); to the Committee on Government Operations and ordered to be printed.

1881. A letter from the Acting Director, Bureau of the Budget, Executive Office of the President, transmitting a report listing appropriations that have been apportioned on a basis which indicates a necessity for supplemental estimates of appropriations to permit pay increases granted pursuant to law, pursuant to the provisions of 31 U.S.C. 665; to the Committee on Appropriations.

1882. A letter from the Acting Director, Bureau of the Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Labor "Trade adjustment activities" for the fiscal year 1970, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to the provisions of 31 U.S.C. 665; to the Committee on Appropriations.

1883. A letter from the Acting Director, Bureau of the Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Labor for "Grants to States for unemployment compensation and employment service administration" for the fiscal year 1970, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to the provisions of 31 U.S.C. 665; to the Committee on Appropriations.

1884. A letter from the director of Civil Defense, Department of the Army, transmitting a report on property acquisitions of emergency supplies for the quarter ending March 31, 1970, pursuant to subsection 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1885. A letter from the Administrator, Small Business Administration, transmitting the third monthly report on the implementation of the business loan and investment fund, pursuant to section 301 of Public Law 91–151; to the Committee on Banking and Currency.

1886. A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation to provide for the removal of snow and ice from the paved sidewalks of the District of Columbia; to the Committee on the District of Columbia.

1887. A letter from the Commissioner of Social Security, Social Security Administration, Department of Health, Education, and Welfare, transmitting an advance copy of the regulations being promulgated under section 411(b) of title IV of the Federal Coal Mine Health and Safety Act; to the Committee on Education and Labor.

1888. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Government Printing Office for fiscal year 1969, pursuant to 44 U.S.C. 309; to the Committee on Government Operations.

1889. A letter from the Comptroller General of the United States transmitting a report on the management of industrial plant equipment kept by the Department of Defense for possible future use; to the Committee on Government Operations.

1890. A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend Public Law 403, 80th Congress, of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission; to the Committee on Foreign Affairs.

1891. A letter from the Chairman, Federal Council for Science and Technology, Executive Office of the President, transmitting a copy of the annual progress report of the Committee on Water Resources Research, entitled, "Federal Water Resources Research Program for Fiscal Year 1970"; to the Committee on Interior and Insular Affairs.

1892. A letter from the Assistant Secretary of the Interior, transmitting a list and one copy each of laws enacted by the Legislature of the Virgin Islands in its 1969 sessions, pursuant to section 9(g) of the Revised Organic Act of the Virgin Islands of the United States; to the Committee on Interior and Insular Affairs.

1893. A letter from the Director, Bureau of Mines, Department of the Interior, transmitting a copy of a proposed grant agreement with the University of Pittsburgh for a research project relative to developing a simulator for predicting air quality in coal mines, pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

1894. A letter from the Chairman, Indian Claims Commission, transmitting a report on the final conclusion of judicial proceedings regarding dockets No. 314–C and 99, *the Peoria Tribe of Indians of Oklahoma;* docket No. 317, *the Kickapoo Tribe of Kansas,* Plaintiffs, v. *The United States of America,* Defendant, pursuant to the Indian Claims Commission Act of August 13, 1946, as amended; to the Committee on Interior and Insular Affairs.

1895. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Community Mental Health Centers Act to repeal the requirement of grant approval by the National Advisory Mental Health Council; to the Committee on Interstate and Foreign Commerce.

1896. A letter from the Chairman, Federal Power Commission, transmitting the annual report of the Commission for the fiscal year July 1, 1968–June 30, 1969; to the Committee on Interstate and Foreign Commerce.

1897. A letter from the treasurer, American Chemical Society, transmitting the annual report of the society for 1969 and a copy of the audit for the year ended December 31, 1969, pursuant to section 8 of Public Law 358, 75th Congress; to the Committee on the Judiciary.

1898. A letter from the Postmaster General, transmitting a copy of the Department's Revenue and Cost Analysis Report for fiscal year 1969, pursuant to 39 U.S.C. 2331; to the Committee on Post Office and Civil Service.

1899. A letter from the Secretary of State, transmitting a draft of proposed legislation to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968; to the Committee on Ways and Means.

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. EVINS: Select Committee on Small Business. Report on the allocation of radio frequency spectrum and its impact on small business (1969) (Rept. No. 91–982). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee on Internal Security annual report 1969 (Rept. No. 91–983). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. House Joint Resolution 1124. Joint resolution to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees (Rept. No. 91–984). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 16769. A bill to improve law enforcement in urban areas by making available funds to improve the effectiveness of police services; to the Committee on the Judiciary.

By Mr. BROCK:

H.R. 16770. A bill to amend the Truth in Lending Act to eliminate the inclusion of agricultural credit; to the Committee on Banking and Currency.

By Mr. BROOMFIELD:

H.R. 16771. A bill to amend title 37, United States Code, to authorize payment of travel and transportation allowances to certain members of the uniformed services in connection with leave; to the Committee on Armed Services.

By Mr. BROWN of California:

H.R. 16772. A bill declaring a public interest in the open beaches of the Nation, providing for the protection of such interests, for the acquisition of easements pertaining to such seaward beaches and for the orderly management and control thereof; to the Committee on Interior and Insular Affairs.

H.R. 16773. A bill to prohibit commercial flights by supersonic aircraft within the United States until the Secretary of Health, Education, and Welfare finds and reports that such flights will not have detrimental physiological or psychological effects on persons on the ground; to the Committee on Interstate and Foreign Commerce.

H.R. 16774. A bill to amend the National Environmental Policy Act of 1969 to provide for class actions in the U.S. district courts against persons responsible for creating certain environmental hazards; to the Committee on Merchant Marine and Fisheries.

H.R. 16775. A bill to amend the Federal Water Pollution Control Act and the Clean Air Act in order to provide assistance in enforcing such acts through Federal procurement contract procedures; to the Committee on Public Works.

H.R. 16776. A bill to amend the Internal Revenue Code of 1954 to disallow any personal exemption with respect to children (born after 1971) in excess of two in a family, and for other purposes; to the Committee on Ways and Means.

By Mr. CHAMBERLAIN:

H.R. 16777. A bill to terminate the tobacco price support program; to the Committee on Agriculture.

By Mr. COLLIER:

H.R. 16778. A bill to provide that, after January 1, 1971, Memorial Day be observed on May 3 of each year and Veterans Day be observed on the second Monday in November of each year; to the Committee on the Judiciary.

By Mr. CONTE (for himself, Mr. BRADEMAS, Mr. CAREY, Mr. CLAY, Mr. FASCELL, Mr. FRASER, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HOWARD, Mr. O'HARA, Mr. REES, Mr. SCHEUER, and Mr. STOKES):

H.R. 16779. A bill to provide for the elimination, over a 10-year period, of the mandatory oil import control program; to the Committee on Ways and Means.

By Mr. CORMAN:

H.R. 16780. A bill to provide additional protection for the rights of participants in private pension plans, to establish minimum standards for vesting and funding of private pension plans, to provide an insurance program guaranteeing plan termination protection, and for other purposes; to the Committee on Education and Labor.

H.R. 16781. A bill Welfare and Pension Plans Act; to the Committee on Education and Labor.

H.R. 16782. A bill to authorize the Federal Trade Commission to set standards to guarantee comprehensive warranty protection to the purchasers of merchandise shipped in interstate commerce; to the Committee on Interstate and Foreign Commerce.

H.R. 16783. A bill to promote fair competition among prime contractors and subcontractors and to prevent bid peddling on public works contracts by requiring persons submitting bids on those contracts to specify certain subcontractors who will assist in carrying them out; to the Committee on the Judiciary.

H.R. 16784. A bill to amend the Internal Revenue Code of 1954 to extend the child care deduction to men who are not married; to the Committee on Ways and Means.

By Mr. DANIELS of New Jersey (for himself, Mr. PERKINS, Mr. O'HARA, Mr. HATHAWAY, Mr. WILLIAM D. FORD, Mr. MEEDS, Mr. BURTON of California, Mrs. GREEN of Oregon, Mr. HAWKINS, Mr. GAYDOS, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. PUCINSKI, Mr. BRADEMAS, Mr. CAREY, Mrs. MINK, Mr. SCHEUER, Mr. STOKES, Mr. CLAY, and Mr. POWELL):

H.R. 16785. A bill to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes; to the Committee on Education and Labor.

By Mr. DANIELS of New Jersey (for himself, Mr. RODINO, Mr. GALLAGHER, Mr. MINISH, Mr. HELSTOSKI, and Mr. HOWARD):

H.R. 16786. A bill to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health, and for other purposes; to the Committee on Education and Labor.

By Mr. EVINS of Tennessee:

H.R. 16787. A bill to amend title II of the Social Security Act to provide that a minor in the legal custody of an individual or couple shall be considered the "child" of such individual or couple for benefit purposes; to the Committee on Ways and Means.

By Mr. FALLON (for himself and Mr. KLUCZYNSKI):

H.R. 16788. A bill to authorize appropriations for the fiscal years 1974 through 1978 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes; to the Committee on Public Works.

By Mr. GERALD R. FORD:

H.R. 16789. A bill to amend the Tariff Act of 1930 to provide for the duty-free entry of certain hollow reinforcing bars; to the Committee on Ways and Means.

By Mr. HOGAN:

H.R. 16790. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

By Mr. HUNGATE:

H.R. 16791. A bill to amend the Federal Meat Inspection Act, as amended, to clarify the provisions relating to custom slaughtering operations; to the Committee on Agriculture.

By Mr. JONES of Tennessee:

H.R. 16792. A bill to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes; to the Committee on Ways and Means.

By Mr. MIKVA (for himself, Mr. BOLLING, Mr. BRADEMAS, Mr. BURTON of California, Mr. DADDARIO, Mr. FRASER, Mr. GIBBONS, Mr. GILBERT, Mr. HAMILTON, Mr. KOCH, Mr. LOWENSTEIN, Mr. MOORHEAD, Mr. OTTINGER, Mr. PODELL, Mr. ROSENTHAL):

H.R. 16793. A bill to assist in reducing crime by requiring speedy trials in cases of persons charged with violations of Federal criminal laws, to strengthen controls over dangerous defendants released prior to trial, to provide means for effective supervision and control of such defendants, and for other purposes; to the Committee on the Judiciary.

By Mr. MIKVA (for himself, Mr. ANDERSON of California, Mr. BOLLING, Mr. BRADEMAS, Mr. BURTON of California, Mr. DADDARIO, Mr. FRASER, Mr. GIBBONS, Mr. GILBERT, Mr. HAMILTON, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. KOCH, Mr. LOWENSTEIN, Mr. MOORHEAD, Mr. OTTINGER, Mr. PODELL, Mr. ROSENTHAL, Mr. SYMINGTON):

H.R. 16794. A bill to assist in combating crime by reducing the incidence of recidivism, providing improved Federal, State, and local correctional facilities and services, strengthening administration of Federal corrections, strengthening control over probationers, parolees, and persons found not guilty by reason of insanity, and for other purposes; to the Committee on the Judiciary.

By Mr. MIKVA (for himself, Mr. ANDERSON of California, Mr. BOLLING, Mr. BRADEMAS, Mr. BURTON of California, Mr. DADDARIO, Mr. GIBBONS, Mr. GILBERT, Mr. HAMILTON, Mr. HELSTOSKI, Mr. LOWENSTEIN, Mr. MOORHEAD, Mr. OTTINGER, Mr. PODELL, Mr. ROSENTHAL, and Mr. SYMINGTON):

H.R. 16795. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. TIERNAN, Mr. BARING, Mr. LEGGETT, Mr. OTTINGER, Mr. DELANEY, Mr. CHAPPELL, Mr. SCHEUER, and Mr. ANDERSON of California):

H.R. 16796. A bill to require the establishment of marine sanctuaries and to prohibit the depositing of any harmful materials therein; to the Committee on Merchant Marine and Fisheries.

By Mr. O'NEILL of Massachusetts:

H.R. 16797. A bill to permit certain employees of a State or political subdivision thereof to elect coverage under the Federal old-age and survivors insurance system, as self-employed individuals; to the Committee on Ways and Means.

By Mr. PATTEN:

H.R. 16798. A bill to amend and improve the Public Health Service Act to aid in the development of integrated, effective, consumer-oriented health care system by extending and improving regional medical programs, supporting comprehensive planning of public health services and health services development on a State and areawide level, promoting research and demonstrations relating to health care delivery, encouraging experimentation in the development of cooperation local, State, or regional health care delivery systems, enlarging the scope of the national health survey, facilitating the development of comparable health information and statistics at the Federal, State, and local levels, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PETTIS:

H.R. 16799. A bill to amend the Internal Revenue Code of 1954 to provide that the spouse of an individual who derives unreported income from criminal activities, if such spouse had no knowledge of such activities or such income, shall not be liable for tax with respect to such income; to the Committee on Ways and Means.

By Mr. PIRNIE:

H.R. 16800. A bill to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 16801. A bill to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBISON:

H.R. 16802. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 16803. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. SCHEUER:

H.R. 16804. A bill to provide Federal financial assistance to Opportunities Industrialization Centers; to the Committee on Education and Labor.

By Mr. SCHEUER (for himself, Mr. BRADEMAS, Mr. BINGHAM, Mr. BROWN of California, Mr. DANIELS of New Jersey, Mr. EDWARDS of California, Mr. EILBERG, Mr. WILLIAM D. FORD, Mr. FRASER, Mr. GUDE, Mr. HALPERN, Mr. HARRINGTON, Mr. HORTON, Mr. KOCH, Mr. MEEDS, Mr. MOORHEAD, Mr. OBEY, Mr. OTTINGER, Mr. PODELL, Mr. POLLOCK, Mr. POWELL, Mr. REES, Mr. ROSENTHAL, Mr. ST. ONGE, Mr. UDALL, Mr. WHITEHURST, and Mr. WOLFF):

H.R. 16805. A bill to assist State and local criminal justice systems in the rehabilitation of criminal and youth offenders, and the prevention of juvenile delinquency and criminal recidivism by providing for the development of specialized curriculums, the training of educational personnel, and research and demonstration projects; to the Committee on Education and Labor.

By Mr. SCHEUER:

H.R. 16806. A bill to amend the Immigration and Nationality Act to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

H.R. 16807. A bill to amend title 38 of the United States Code to increase the rates and income limitations relating to payment of pension and parents' dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. STAGGERS (for himself and Mr. SPRINGER):

H.R. 16808. A bill to amend the Public Health Service Act to extend for 1 year the programs of assistance for training in the allied health professions, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16809. A bill to amend the Community Mental Health Centers Act to repeal the requirement of grant approval by the National Advisory Mental Health Council; to the Committee on Interstate and Foreign Commerce.

H.R. 16810. A bill to authorize an additional Assistant Secretary of Commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR:

H.R. 16811. A bill to authorize the Secretary of the Interior to declare that the United States holds in trust for the Eastern Band of Cherokee Indians of North Carolina certain lands on the Cherokee Indian Reservation heretofore used for school or other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WATSON:

H.R. 16812. A bill to amend the Agricultural Adjustment Act of 1938, as amended, to preserve the ratio between counties receiving upland cotton acreage allotments for 1970; to the Committee on Agriculture.

By Mr. WATTS:

H.R. 16813. A bill to provide that the interest on certain insured loans sold out of the agricultural credit insurance fund shall be included in gross income; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON:

H.R. 16814. A bill to assist in reducing crime by requiring speedy trials in cases of persons charged with violations of Federal criminal laws, to strengthen controls over dangerous defendants released prior to trial, to provide means for effective supervision and control of such defendants, and for other purposes; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 16815. A bill to provide a comprehensive Federal program for the prevention and treatment of drug abuse and drug dependence; to the Committee on Interstate and Foreign Commerce.

By Mr. BIAGGI (for himself, Mr. BINGHAM, Mr. DADDARIO, Mr. FRASER, Mr. GILBERT, Mr. HALPERN, Mr. HARRINGTON, Mrs. HELSTOSKI, Mr. KOCH, Mr. LEGGETT, Mr. LOWENSTEIN, Mr. MEEDS, Mr. MOORHEAD, Mr. MOSS, Mr. OTTINGER, Mr. PODELL, Mr. VANIK, and Mr. VIGORITO):

H.R. 16816. A bill to amend title 10 of the United States Code to establish procedures providing members of the Armed Forces redress of grievances arising from acts of brutality or other cruelties, and acts, which abridge or deny rights guaranteed to them by the Constitution of the United States, suffered by them while serving in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. BROWN of California:

H.R. 16817. A bill to create a National Coastline Conservation Commission, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BURKE of Florida:

H.R. 16818. A bill to increase the penalties for the illegal use or possession of explosives; to the Committee on Judiciary.

H.R. 16819. A bill to amend the Internal Revenue Code of 1954 by imposing a tax on the transfer of explosives to persons who may lawfully posses them and to prohibit possession of explosives by certain persons; to the Committee on Ways and Means.

By Mr. EDWARDS of California:

H.R. 16820. A bill to authorize the U.S. Commissioner of Education to make grants to or contracts with public educational and social service agencies for the conduct of special educational programs and activities concerning the use of drugs; to the Committee on Education and Labor.

By Mr. HANSEN of Idaho (for himself and Mr. MCCLURE):

H.R. 16821. A bill to designate certain lands in the Craters of the Moon National Monument in Idaho as wilderness; to the Committee on Interior and Insular Affairs.

H.R. 16822. A bill to designate certain lands in the Craters of the Moon National Monument in Idaho as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. KEE:

H.R. 16823. A bill to amend title II of the Social Security Act to eliminate the reduction in disability insurance benefits which is presently required in the case of an individual receiving workmen's compensation benefits; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. SPRINGER):

H.R. 16824. A bill to authorize appropriations for fiscal years 1971, 1972, and succeeding fiscal years to carry out the Flammable Fabrics Act, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. YATES:

H.R. 16825. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, so as to place entitlement to benefits for husbands and widowers (including medicare benefits) on the same basis as benefits for wives and widows; to the Committee on Ways and Means.

By Mr. BROWN of California:

H.J. Res. 1155. Joint resolution establishing the Commission on United States Participation in the United Nations, and for other purposes; to the Committee on Foreign Affairs.

By Mr. ROBISON:

H.J. Res. 1156. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. MACGREGOR:

H. Res. 903. A resolution creating a select committee to conduct an investigation and study of all the circumstances surrounding the commercial operations of U.S. copper producers and copper markets; 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. CHAMBERLAIN:

H.R. 16826. A bill for the relief of Tirifo Vasof; to the Committee on the Judiciary.

By Mr. COHELAN:

H.R. 16827. A bill for the relief of Jose Posada; to the Committee on the Judiciary.

By Mr. CORMAN (by request):

H.R. 16828. A bill for the relief of Kelly Shannon; to the Committee on Interior and Insular Affairs.

By Mr. HOGAN:

H.R. 16829. A bill for the relief of Pakkiam P. Chinnaraj; to the Committee on the Judiciary.

By Mr. MOORHEAD:

H.R. 16830. A bill for the relief of Mrs. Fae Egan; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H.R. 16831. A bill for the relief of Ching Yae Lim; to the Committee on the Judiciary.

By Mr. PIRNIE:

H.R. 16832. A bill for the relief of Sgt. Franklin A. Carpenter, U.S. Air Force; 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:

431. By the SPEAKER: Petition of the Lawrence Veterans Council, Lawrence, Mass., relative to impartial hearings for military men; to the Committee on Armed Services.

432. Also, petition of the Military Order of the World Wars, Washington, D.C., relative to the use of loyalty oaths; to the Committee on Internal Security.

433. Also, petition of Edith Lester, Torrance, Calif., and others, relative to redress of grievances; to the Committee on Post Office and Civil Service.

434. Also petition of the Florida State Cabinet, Tallahassee, Fla., relative to designating Cape Kennedy as the operational base for the space shuttle system; to the Committee on Science nd Astronautics.

435. Also, petition of the City Council of Titusville, Fla., relative to designating Cape Kennedy as the operational base for the space shuttle system; to the Committee on Science and Astronautics.