Alfred M. Gray, Jr.
Robert E. Haebel
Elvyn E. Hagedorn
Richard S. Hartman
William H. Heintz
Emil W. Herich
Peter L. Hilgartner
Clarence E. Hogan
Harry H. Holmberg
Eugene R. Howard, Jr.
Robert W. Howland
William E. Hutchison
Gerald H. Hyndman
Raymond B. Ingrando
Richard P. Johnson
Thomas M. Kauffman
Charles J. Keever
Thomas R. Kelly
William R. Kephart
Lavern W. Larson
William A. Lawrence
Charles G. Little
Gordon M. Livingston
John R. Love
Frederick F. Mallard
Richard C. Marsh
Val R. McClure
Max McQuown
John G. Metz
Marc A. Moore
Samuel M. Morrow
Roy E. Moss
Frank J. Murray
Neil A. Nelson
Donald E. Newton
Stephen G. Olmstead
Eric B. Parker
John J. Peeler
Edward F. Penico
Charles R. Poppe, Jr.
Francis X. Quinn
James R. Quisenberry
Stanly H. Rauh
Brooke F. Read, Jr.
John J. Reddy
Lee C. Reece
Robert C. Rice
William H. Rice
William R. Rice
Charles D. Roberts, Jr.
Rodger E. Rourke
Jack D. Rowley
William A. Scott, Jr.
Donald L. Sellers
Dale E. Shatzer
Paul L. Siegmund
Eugene A. Silverthorn
William C. Simanikas
Benjamin B. Skinner
Louis Z. Slawter, Jr.
Richard W. Smith
Michael E. Spiro
Broman C. Stinemetz
Richard C. Stockton
Thomas R. Stuart
Lawrence F. Sullivan
Richard B. Taber
Gerald C. Thomas, Jr.
Ralph Thuesen
Frank D. Topley
Bernard E. Trainor
Richard B. Twohey
John J. Unterkofler
Morgan W. West
Peter A. Wickwire
Bobby R. Wilkinson
Charles T. Williamson
Theodore J. Willis
Leonard E. Wood
Tullis J. Woodham, Jr.
Richard E. Wray, III
Gary L. Yundt

CONFIRMATIONS

Executive nominations confirmed by the Senate September 13, 1971:

IN THE AIR FORCE

The following officer to be placed on the retired list, in the grade of general, under the provisions of section 8962, title 10, of the United States Code:

Gen. Joseph R. Holzapple, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officer to be assigned to a position of importance and responsibility designated by the President, in the grade of general, under the provisions of section 8066, title 10, of the United States Code:

Lt. Gen. David C. Jones [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officer to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general, under the provisions of section 8066, title 10, of the United States Code:

Maj. Gen. William V. McBride, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

Maj. Gen. Gerald W. Johnson, [redacted] FR, Regular Air Force, to be assigned to a position of importance and responsibiltiy designated by the President in the grade of lieutenant general, under the provisions of section 8066, title 10, of the United States Code.

IN THE ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. George Vernon Underwood, Jr., [redacted] Army of the United States (major general, U.S. Army).

IN THE NAVY

Vice Adm. John A. Tyree, Jr., U.S. Navy, and Vice Adm. James W. O'Grady, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

In the Army

The nominations beginning Howard T. Prince, to be captain, and ending John A. Reid, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Aug. 5, 1971.

In the Navy

The nominations beginning James A. Kasica, to be ensign, and ending Valentine D. Galasyn, to be permanent lieutenant and a temporary lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on Aug. 5, 1971.

HOUSE OF REPRESENTATIVES—*Monday, September 13, 1971*

The House met at 12 o'clock noon.

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

Now, O God, strengthen Thou my hands.—Nehemiah 6: 9.

Most merciful and gracious God, help us to begin this new week with a greater devotion to Thee and with a genuine determination to meet the experiences of these days with courage, to manage them with confidence, and to master them with a creative faith which will lead us and our Nation to the heights of truth, righteousness, and good will. So we come to Thee this morning praying that Thy strength may sustain us as we endeavor to walk the true and living way.

"Just as we are, strong and free,
To be the best that we can be
For truth and righteousness and Thee,
Lord of our lives, we come."

Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed a resolution of the following title:

S. RES. 165

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Winston L. Prouty, late a Senator from the State of Vermont.

Resolved, That a committee of Senators be appointed by the President of the Senate to attend the funeral of the deceased.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 850. Joint resolution authorizing the Honorable Carl Albert, Speaker of the House of Representatives, to accept and wear The Ancient Order of Sikatuna (Rank of Datu), an award conferred by the President of the Philippines.

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

S. 942. An act to establish a Commission on Security and Safety of Cargo; and

S. 2007. An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

THE LATE HONORABLE WINSTON L. PROUTY

Mr. STAFFORD. Mr. Speaker, I regret to have to announce to my colleagues in the House the tragic death of the junior Senator from Vermont, WINSTON L. PROUTY, who was a Member of this body for four terms. Senator PROUTY passed away on Friday, September 10, 1971.

He was a most distinguished American and Vermonter and a personal friend of mine.

Mr. Speaker, after an agreement with you and consistent with similar activities in the other body later today, may I make note of the time for memorial services for Senator PROUTY and invite the Members of the House who knew him to join in those services.

APPOINTMENT OF CONFEREES ON H.R. 10090, PUBLIC WORKS AND ATOMIC ENERGY COMMISSION APPROPRIATIONS, 1972.

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10090) making appropriations for Public Works for Water and Power Development and the Atomic Energy Commission for the fiscal year ending June 30, 1972, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and appoints the following conferees: Messrs. EVINS of Tennessee, BOLAND, WHITTEN, ANDREWS of Alabama, SLACK, MAHON, RHODES, DAVIS of Wisconsin, ROBISON of New York, and BOW.

PROHIBITING DETENTION CAMPS

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 483 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 483

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. 234) to amend title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be committed for detention or imprisonment in any facility of the United States Government except in conformity with the provisions of title 18. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Internal Security, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the text of the bill H.R. 820 as an amendment in the nature of a substitute for the bill. At the conclusion of the consideration of H.R. 234 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 with or without instructions.

Mr. EVINS of Tennessee, Mr. Speaker, yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 483 provides for consideration of H.R. 234, which, as reported by our Committee on the Judiciary witbout a single dissenting vote, would prohibit the establishment of emergency detention camps and repeal the Emergency Detention Act of 1950, which authorizes the establishment of such camps. The resolution provides an open rule with general debate limited to 3 hours, of which 1½ hours are to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and the other 1½ hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Internal Security. After general debate, H.R. 234 will be read for amendment under the 5-minute rule.

Mr. Speaker, the resolution also provides that it shall be in order to consider the text of the bill H.R. 820 as an amendment in the nature of a substitute for H.R. 234. The bill H.R. 820, reported by the Committee on Internal Security on a one-vote majority of 5 to 4, would merely amend and not repeal the Emergency Detention Act.

At the conclusion of the consideration of H.R. 234 for amendment, the rule further provides that the previous question shall be considered as ordered on the bill and amendments thereto to final passage, without intervening motion, except one motion to recommit with or without instructions.

Mr. Speaker, H.R. 234 involves a simple but vital question: Is there a place for concentration camps in America?

The answer obviously is "No." But let us examine both the question and answer in greater depth. As Americans we find, particularly in the present national climate, that the possible use of concentration camps as a tool of government is repugnant. We have come to equate concentration camps with Nazi Germany, Communist Russia, and other totalitarian forms of government. Indeed, we cannot justify the establishment of concentration camps under our own form of government by merely giving them euphemistic labels, such as "relocation camps" or "detention centers." Regardless of the appellation used, they in fact are all concentration camps—places where persons are incarcerated merely on the basis of governmental fiat. A democracy such as ours ought not to countenance any law which authorizes the establishment of concentration camps. H.R. 234, therefore, seeks to strike from our statue books a law which authorizes the establishment of concentration camps in America.

The objectionable law is title II of the Internal Security Act of 1950, the so-called Emergency Detention Act. It has also been referred to frequently as America's concentration camp authorization law.

The Emergency Detention Act ought to be repealed, for the further reason that it violates the constitutional guarantees and judicial traditions that are basic to our American way of life. For example, title II authorizes detention not on the basis of an actual act committed in violation of law, but on the basis of mere suspicion—of a mere probability that, during proclaimed periods of internal security emergencies, the detainee might engage in, or conspire with others to engage in. acts of espionage or sabotage. Moreover, the detainee is not granted a trial by jury, or even before a judge; he is assumed to be guilty, for there is no presumption of innocence; and he is denied the right of confrontation for the attorney general, if he deems it to be in the national interest, need not produce any evidence or witnesses in support of his charges against the detainee.

In addition to the chilling effect that the Emergency Detention Act casts upon the full enjoyment of constitutional rights, there is yet another basis for the disquietute that its presence in our statute books causes in our national life. The genesis of title II, enacted in 1950 over President Truman's veto shortly after U.S. troops had landed in Korea to stem the tide of Communist aggression, can be traced to the tragic experience which most Americans now recall, if at all, as unnecessary and unwarranted.

One of the things which disturbed me most while I was serving at the battlefront in World War II, as an officer of the 100th Infantry Battalion, which subsequently became a part of the Nisei 442d Regimental Combat Team, was the fact that while Americans of Japanese ancestry were fighting and dying in American uniform to preserve the American ideal, 110,000 Japanese-Americans and their parents, some of whom were relatives and friends of mine, were being uprooted from their homes in the Western United States and incarcerated in American concentration camps for no reason other than that they wore Japanese faces. It was unbelievable that the Government of this great democracy would throw innocent Americans, including pregnant women, infants, children, and the aged and infirm into concentration camps, complete with barbed wire fences and armed guards.

Today, all historians, scholars, jurists, lawyers, and plain thinking Americans agree that the evacuation and imprisonment of Japanese-Americans in World War II mark the "most shameful chapter in American history." It would be even more incredible, if, despite this blot in our national history, Americans would sanction any law which provides for the establishment and maintenance of concentration camps in the United States.

Fortunately, such is not the case. The proposal to repeal the Emergency Detention Act has gained national attention and support since 1968, when the Japanese American Citizens League, a national organization of more than 25,000 members constituting 92 chapters in 32 States, decided to spearhead a nationwide drive to repeal the repugnant act. By their efforts, members of that organization hope that the humiliation and suffering of the inmates of America's only concentration camps will not be inflicted upon any other group of Americans.

Today, more than 70 State and local legislative bodies, commissions, and agencies throughout the United States, and more than 500 national, regional, State and chapter organizations, representing various professional, business, labor, veterans, social, religious, and civic groups, have asked that Congress act quickly in repealing the Emergency Detention Act. Leading newspapers across the country have lifted their editorial voices in favor of repeal.

In making this appeal, freedom-loving Americans everywhere have recognized the fact that the Congress of the United States is not only a defender of the Nation's security, but also the first line of defense against any encroachment on individual liberty. In the words of President Truman, when he vetoed the offensive law:

> This is a time when we must marshal all our resources and all the moral strength of our free system in self-defense against the threat of Communist aggression. We will fail in this, and we will destroy all that we seek to preserve, if we sacrifice the liberties of our citizens in a misguided attempt to achieve national security.

The Congress in 1950 disregarded that sage admonition of a great President and overrode his veto to enact the Emergency Detention Act. Fortunately, for ourselves and our country, the full effects of that potentially grave error have not been visited upon any of our citizens. By the grace of God we have been spared a national security emergency during which the act might have been invoked.

We have been granted the time to reflect on our past mistake and the hour has arrived for us to rectify it.

I urge the adoption of House Resolution 483 in order that H.R. 234 may be considered and passed so that we may do this.

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

Mr. ICHORD. Mr. Speaker, I did not hear the gentleman. Did he ask unanimous consent to revise and extend his remarks?

The SPEAKER. No; he reserved the balance of his time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, House Resolution 483 provides a somewhat different type of rule. It is a little unique, as we occasionally do in the Rules Committee. It provides mainly for the consideration of H.R. 234, reported out of the Judiciary Committee, which repeals title II of the Internal Security Act. It also provides an equal amount of time, 1½ hours of general debate, for the consideration of H.R. 820, which was reported by the Internal Security Committee.

So far as I personally am concerned, I am not upset about title II being repealed, but I am certainly concerned about the additional language in the repealer, which was inserted as an amendment into H.R. 234 by the Judiciary Committee.

Title II has never been used. It was passed in 1950. The people they are complaining about, and lots of them are upset about, were taken into custody as citizens in 1942 by the Army. This act was passed in 1950 over former President Truman's veto. It has never been used. I do not see how it can possibly be used nowadays with the many court decisions and the changes in the law. Recently, in connection with some of the problems in Washington, D.C., we found that a conviction could not even be obtained against somebody for disturbing the peace, even though they had their clothes off out in front of the House of Representatives and were raising lots of trouble.

So now we are talking about something which, in my opinion, is "much ado about nothing."

By the same token I will say that I have no objection to title II being repealed, but the language added by the Judiciary Committee as an amendment, instead of a straight repealer, provides as follows:

(a) No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

Why have that language in the bill? That language is not necessary. If title II is bad, let us repeal it.

On December 7, 1941, when Japan attacked Pearl Harbor in the early morning, Congress was not in session. We had a number of problems at that time taking aliens into custody. I happened to have been supervisor of the Los Angeles office of the FBI that had to do with that. About 8:30 that night the President issued orders. There were warrants out. The Attorney General had them. I did not have them in my hands. But in any event, I supervised hundreds of officers, and we took into custody a good many aliens.

That is not comparable to this bill, which has to do with citizens, but by the same token it is comparable from this standpoint: if the President were absolutely handicapped by this language that no citizens shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress, what could he possibly do if there were an emergency?

Some people have indicated that the President has sovereign powers. I asked the Department of Justice what those sovereign powers were, and I asked them to give me a review of those powers. I have received no information from them. If we place this language in the bill, with the various court decisions that we now have, with individual orders signed by various judges of the various courts, nobody would know what might happen if an emergency did arise.

As I have said, I have no objection to repealing title II. But why make it more difficult by having Congress say that nothing can be done, taking away whatever powers the President or anybody else might have, by saying that it cannot be done except by an act of Congress? We might not be in session. It might be a week or two after an emergency should arise before the Congress could act. If the Congress had adjourned, or was in recess and Members were away on business we might have difficulty getting Congress convened quickly.

The Internal Security Committee is taking a little different approach. They are attempting to take away all the fear. They have reported an amendment to the Internal Security Act which says nobody can be placed into any camp because of race or color or creed. I think a great deal of this fear has been manufactured because some Communists or some marchers feel that possibly they may be picked up and placed into a camp wrongfully, and maybe now some good honest citizens are genuinely concerned about it. If we are going to have the language added to the repealer which the Judiciary Committee suggested, then I intend to support the Internal Security Committee bill, I hope the Judiciary Committee will give consideration to accepting language to strike out the provision which says:

No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress—

And simply proceed to repeal title II of the Internal Security Act, which the newspapers, as the gentleman from Hawaii (Mr. MATSUNAGA) has said, and others seem to think ought to be repealed.

If that is what should be done, fine, then let us do it, but do not let us hamstring the President or anybody else with some language we cannot interpret in the future.

If Members are going to insist upon that language, then I am going to oppose that repealer with that language, and I am going to support the Internal Security Committee, which I think has attempted to do a pretty good job.

I do not believe anybody is going to be locked up and placed in a concentration camp. Those days are gone forever so far as the United States of America is concerned.

At any rate, Mr. Speaker, I do support the rule, and I hope Members will pay attention, when it is presented—as they always do, of course. I believe the gentleman from Missouri (Mr. ICHORD) and the gentleman from Ohio (Mr. ASHBROOK) in their recent two-page letter have set forth the situation very uniquely so far as the difficulty is concerned with the added language, and what might occur.

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

Mr. SMITH of California. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Speaker, initially I believe the fears that the gentleman harbors might be entertained by many Members of Congress, but the committee amendment which is proposed, known as the Railsback amendment, does not in any way detract from the powers which the President already has, and the President may act under existing laws passed by Congress as well as by exercising his constitutional powers.

In reply to a question by the chairman of the Internal Security Committee on September 10, 1970, Mr. Yeagley, who was then Assistant Attorney General in charge of the internal security, had this to say:

There is a considerable amount of statutory authority to protect the Internal Security interests of our country from sabotage and espionage or other similar attacks.

This would seem to indicate, and I hope the gentleman from California will review this matter as we go into further debate in the Committee of the Whole, that by the statement of the Attorney General's office itself, we have no fear expressed relative to any emergency situation wherein the lack of law may hamstring the President.

Mr. SMITH of California. May I say to the distinguished gentleman that the testimony we are talking about occurred on the original bill in 1970. This bill was reported in 1971. There is not any statement or any letter any place on this particular language. I have asked the Department of Justice and the Attorney General, and I have inquired of the White House. They do not want to get into it, and I will put it into the RECORD, because of the political reasons. I believe that they are against that language, but they do not want to say so.

The gentleman from Hawaii talks about the Japanese being taken into camp. He wants to repeal title II of the Internal Security Act. Then why does not the gentleman support what he has in mind and not talk about other language which has nothing to do with title II of the Internal Security Act? That is something I cannot quite get myself to understand.

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

Mr. SMITH of California. I am happy to yield further.

Mr. MATSUNAGA. Actually the Railsback amendment, merely reiterates what is the law.

In answer to the query raised by the chairman, this year, in testifying before the Subcommittee No. 3 of the House Committee on the Judiciary, on March 18, 1971, Mr. Mardian, who succeeded Mr. Yeagley as Chief of the Internal Security Division of the Department of Justice, had this to say in answer to a question by the gentleman from Wisconsin (Mr. KASTENMEIER):

Mr. KASTENMEIER. Would you tell the committee what statutory means are at the disposal of the Department in dealing with internal security emergencies?

Mr. MARDIAN. Yes; there are numerous statutes on the book that relate to the commission or attempt to commit acts of sabotage. I think the most relevant statute is title 18, 2152, which is the sabotage statute. Title 18, 2388 is relevant. We have the Smith Act. We have title 50, section 21, which provides for the authority of the President in time of declared war or any invasion or predatory incursion by an enemy.

Then he goes on to say:

I could recite numerous other statutes, all of which deal with the commission of crimes against the United States or attempt to commit crimes against the United States that have been on the books for some considerable period of time, that we feel are sufficient to treat the problem.

I repeat, "that we feel are sufficient to treat the problem."

So the amendment itself, as I pointed out to the gentleman earlier, would not in any way diminish the powers of the President, given to him under laws mentioned by Mr. Mardian.

Mr. SMITH of California. I am very familiar with the statutes the gentleman has read. I taught the law on espionage and sabotage and national security all over the United States. I am familiar with it.

We do have those laws the gentleman says we have, adequate laws. He cites the testimony. Fine. Let us rely on the adequate laws the Department of Justice says we have and not clutter them up by adding language which might cause confusion. That is the point I will stick with.

Mr. ICHORD. Mr. Speaker, will the gentleman yield, since my name was mentioned?

Mr. SMITH of California. I yield to the gentleman from Missouri.

Mr. ICHORD. I did not intend to participate in the debate on the rule. As the gentleman knows, I testified before the Committee on Rules and I do intend to vote for the rule.

I cannot help but make a point, since the gentleman from Hawaii mentioned my name, that the two gentlemen to whom he referred, Mr. Yeagley and Mr. Mardian, also expressed at the same time opposition to the Railsback amendment.

I happen to feel very strongly about some of the issues that have been presented in the debate today. I feel that my position is the true libertarian position.

I did want to make it clear at this point in the RECORD that the Department of Justice did not and has not expressed favor for the Railsback amendment.

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

Mr. SMITH of California. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I want to begin by thanking the gentleman for yielding.

My friend and colleague from Missouri, I believe, is correct when he says that they do not favor it. What he means is they have not taken a position. There is no doubt about that; they have not taken a position.

I believe it is a little bit—and I know he does not intend it—almost misrepresentive when he says they do not favor it. The point is they have really not taken a position.

I want to address myself to the question of the gentleman from California to the gentleman from Hawaii about, Why support this extra language? I believe the answer is very simple. By repealing title II of the Internal Security Act we knock out a statute that was passed in the year 1950. If we are concerned about what happened in 1942 when there really was not a statute existing upon which the President relied, then we have to do something in addition if we really want to prevent some kind of a recurrence of what happened in 1942.

In other words, the Internal Security Act was not even in existence in 1942.

Mr. SMITH of California. I can understand the gentleman's point. I repeat, and then I will close, that title II of the Internal Security Act has never been used. It was passed in 1950. You are talk-about a World War II problem, where the Army took action pursuant to a Presidential order. There was a lot of concern at that time about various situations. You will recall back before World War I we had the Black Tom explosion which blew up an ammunition dump in New Jersey, and costs ran into millions of dollars of damages. We had all kinds of sabotage that occurred. Now, neither the gentleman from Illinois nor the gentleman from Ohio nor the gentleman from California can anticipate what may happen in the future. We do not have a crystal ball. I say that if title II is the problem, then let us repeal it. It has never been used or will be used, so why go ahead and put more language in on it? Why create an additional problem here that we do not now have?

Mr. RAILSBACK. Let me say I understand your position, but frankly simply repealing title II does not, in my opinion, have a chance. I think the gentleman from Missouri, who is on the opposite side, would agree. I think what that does simply is it leaves it in limbo. If you want to follow what he has proposed, that is one thing. If you want to prevent what happened in 1942, then that is something else.

I want to make one additional point here. Even under the amendment that will be offered by the gentleman, I believe there are three events which trigger or can trigger a Presidential proclamation. Two of them would now require in his amendment some kind of congressional action in the near future. The other thing is that under martial law, if there were an invasion of this country and the courts were not able to operate, there is no question but what the President would retain his powers in that event.

Mr. SMITH of California. I will say to the gentleman from Illinois those are some of the things that bother me. In other words, this amendment has been added by the Committee on the Judiciary. Why does not the Committee on the Judiciary repeal title II and then start hearings and find out what laws we have now? You say you think the President could do this or could do that. It seems that we have different thoughts on these matters. Why do we not get a staff study out to the Department of Justice and let them look at this language and say that they are either for this language or they are not? Do not let them play politics with it. You could do a good job on it, but I just do not think you have had the necessary hearings with regard to that language yet. This is my personal opinion. You can do a good job on it and review it and come in with legislation if it is needed.

Mr. ICHORD. Mr. Speaker, will the gentleman yield since my name was mentioned again?

Mr. SMITH of California. I yield to the gentleman from Missouri.

Mr. ICHORD. The gentleman from Illinois may have inferred that I perhaps intentionally misled the House when I said that Mr. Mardian and also Mr. Veagley had expressed opposition to the Railsback amendment. I hold in my hand a letter dated May 14, 1971, and I read from that letter from Mr. Mardian which says that at the March 3 hearings before the House Committee on the Judiciary, Subcommittee No. 3, "I objected to this provision."

Now, it is true that the amendment at that time only applied to title 18. It applies now and it has been revised.

This is my position. I think that the House Committee on the Judiciary has not done its work well. I think it has jumped from the frying pan into the fire. I hope during the course of this debate to hold your feet to the fire. I think that we can discuss these very difficult, profound constitutional issues without being disagreeable. If we do disagree, I think we can disagree without being disagreeable. I do not wish to say any more at this time and I appreciate the gentleman from California yielding.

Mr. SMITH of California. I was happy to yield to the gentleman from Missouri.

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

Mr. SMITH of California. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I appreciate the efforts of the gentleman from Missouri in trying to clear up the record, and I know that no one feels that the gentleman from Missouri has tried to mislead the House. However, if I could clear it up a little bit more I would like to be able to do so, because I am sure that the gentleman from Missouri had no intention to misinform the House.

Mr. Speaker, I think we can agree on the fact that Mr. Mardian appeared before our subcommittee. He appeared and stated—and I can quote his testimony, if necessary—his opposition to a provision that was in the bill that the gentleman from Hawaii (Mr. MATSUNAGA) and I had introduced, along with other proposals which stated that no one should be detained or imprisoned except under the

provisions of title 18. He pointed out, very wisely, that many of the provisions that do allow detention and imprisonment appear in other sections than title 18. He made reference to them including 26 and 49, and in response to the Department of Justice opposition to that over extension, the Railsback amendment came into being, which made it very clear that we are not talking about title 18 but any detention authorized by an act of Congress.

So, I am sure that the gentleman from Missouri would agree that Mr. Mardian's statements all refer to the earlier bill which would have said that imprisonment could only be pursuant to title 18 but he correctly added that there were many other titles which allow for imprisonment.

Mr. SMITH of California. Mr. Speaker, I will say to the gentleman that I assume this question can be resolved during the 3 hours of general debate, but the gentleman's statement is another reason why I think I am correct in that there is a difference here about what the testimony of Mr. Mardian was—whether he was for it or against it or whether there are already existing adequate laws. Why does not the Committee on the Judiciary find out and spell them out and see if we need this language? If they need this language, I shall support a rule providing for it, but I do not think we ought to legislate without full knowledge, and so many Members of the House who are on the floor have differing opinions as to the testimony of Mr. Mardian.

Mr. Speaker, let us find out what it was. Let us find out what we are talking about. In other words, are you for it or against it and leave politics out of it.

Mr. ICHORD. Mr. Speaker, since my name has again been mentioned, will the gentleman yield?

Mr. SMITH of California. I yield further to the gentleman from Missouri.

Mr. ICHORD. I appreciate the kind remarks of the distinguished gentleman from Illinois, but I thought I made myself clear. I do not know whether I said what I meant, but I think I meant, and I am quite sure I meant what I said, and I quote again from the letter dated May 14, 1971, by Mr. Mardian in order to make my position clear. Of course, I am not here to defend Mr. Mardian's position. I am here to defend my position and the position of my committee. Mr. Mardian stated:

> Of course, the Department of Justice has maintained, and continues to maintain, the opinion that title II of the Internal Security Act of 1950 should be repealed outright without any provisos attached thereto.

The amendment which the gentleman from Illinois (Mr. RAILSBACK) proposes to offer is a proviso, and I hope to be able to show the gentleman from Illinois they jump from the frying pan into the fire, and I say again I intend to hold your feet to the fire.

Mr. SMITH of California. Mr. Speaker, I urge the adoption of House Resolution 483 and reserve the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I have no further requests for time on this side.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

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

Mr. ICHORD. Mr. Speaker, reserving the right to object—and I will object, Mr. Speaker, if the request for a revision and extension of the remarks includes extraneous material.

Mr. ANDERSON of Illinois. Mr. Speaker, I am sorry that the gentleman from Missouri (Mr. ICHORD) feels obliged to invoke a rule of that kind in connection with what is a normal and routine request. Actually, I had not intended to include any extraneous material——

Mr. ICHORD. With that understanding, that the gentleman does not include extraneous material—and I will make my point very clear later on in the debate.

Mr. ANDERSON of Illinois. Mr. Speaker, I do not yield further.

Mr. ICHORD. If the gentleman will permit me to continue, I will not object as long as the request does not include extraneous material.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

Mr. ANDERSON of Illinois. Mr. Speaker, before I begin, I think it is appropriate to note with great pleasure the return to the floor of the House of Representatives this afternoon of the distinguished ranking member of the House Committee on the Judiciary, my friend and colleague, the gentleman from Ohio (Mr. MCCULLOCH).

Mr. Speaker, I think that the rising and spontaneous ovation that my friend, the gentleman from Ohio (Mr. MCCULLOCH), has just received, speaks volumes, and far more eloquently than any words that I could summon, of the deep feeling of affection that we hold for the gentleman, and the fact that during these many weeks of his enforced absence because of illness, that we have missed him, that we have missed his wise counsel, and that we have missed his support on those great issues because I think there is no man with a reputation for being a greater civil libertarian and a greater supporter of the cause of civil rights than the gentleman from Ohio (Mr. MCCULLOCH). We are indeed happy that he has come back to us today.

Mr. Speaker, I do not intend to speak at length on this bill. I merely wanted to express my pleasure that, after these many, many weeks, if not months of preparation that we have come to the moment of decision on what I think is a highly important piece of legislation.

I sense from the attitude of my friend, the gentleman from Missouri (Mr. ICHORD)—and he is my friend—that there is a little testiness in the air on this matter, and maybe it is because it stems from the fact that I believe the committee which that gentleman chairs so ably, feels some preemptive or some proprietary rights on the subject matter of the Internal Security Act of 1950, and there is maybe just a bit of feeling over the fact that we are considering it today——

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. SMITH of California. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, by the fact that we are considering it today, but not from his committee, but from the House Committee on the Judiciary.

I believe I would agree with my friend, the ranking member of the Committee on Rules, the gentleman from California (Mr. SMITH), that we have attempted to deal with this matter fairly and equitably by providing a rule that will allow each of these committees an equal amount of time to discuss their respective approaches to this matter.

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

Mr. ANDERSON of Illinois. In just one moment.

I further join the gentleman from Hawaii in the effort that he has made to secure the total and outright repeal of title II.

When I testified many weeks ago before the House Committee on the Judiciary I referred at that time to some testimony by the Deputy Attorney General, Richard Kleindienst, when in 1969 he testified in behalf of the Department of Justice in support of the repeal of title II, and what he said at that time I thing bears repeating: that this statute has aroused among many of the citizens of the United States the belief that it may one day be used to accomplish the apprehension and detention of citizens who hold unpopular beliefs and views.

And it is because of that fear, even though it may be unjustified, and even though it may be indeed even fanciful to believe that such things could happen in this Republic, I believe it is important that we recognize that the fear does exist, and that fear can be corrosive, it can be destructive so far as our democracy is concerned, so that, therefore, we ought to completely allay and bring to rest those fears once and for all by wiping from the statute books title II of the Internal Security Act of 1950.

Mr. Speaker, I support the rule, and I support the legislation that would make that come to pass.

Now I am pleased to yield to my friend, the gentleman from Missouri, the chairman of the Committee on Internal Security (Mr. ICHORD).

Mr. ICHORD. I want to say, insofar as the rhetoric of the gentleman from Illinois is concerned, I agree with him wholeheartedly. I do not, however, agree with his emotion and with his logic.

I want to assure the gentleman from Illinois that I am not piqued that the House Committee on the Judiciary might have infringed upon the jurisdiction of the House Committee on Internal Security. But my objection goes to the substantive issue and I will insist, and I want to watch it very closely, that no extraneous material goes into the RECORD, in order to observe the issues, unless it is moved and ordered by the House.

Mr. ANDERSON of Illinois. I had not intended to discuss the substitute. I felt there would be adequate time during the 3 hours of general debate for that to take place.

But, the gentleman has raised the point—and let me say why I am opposed to the substitute that he would offer. It is simply for the reason that it would, to be sure, for the first time, provide that no one could be detained or imprisoned for reasons of race and ancestry. But that does not include language to the effect that it would bar the imprisonment of someone holding unpopular beliefs. It does not go to the very important matter, I think, of possible thought control. So I would salute the gentleman for going as far as he has gone in suggesting we would never want to return to the days of 1941 and 1942, imprisoning people on the basis of ancestry. But I think we ought to go the whole way—we ought to go the whole route and repeal the title and thereby achieve the objective of making sure that we do not detain people for holding unpopular beliefs as well.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield again since he has mentioned my name?

The SPEAKER. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

Mr. MATSUNAGA. Mr. Speaker, does the gentleman from Missouri wish time?

Mr. ICHORD. I do not wish to participate in this debate, but as I stated previously, if the gentleman is going to——

Mr. MATSUNAGA. Mr. Speaker, does the gentleman from Missouri wish time?

Mr. ICHORD. I do not desire any time, but I will object to the inclusion of extraneous material in the unanimous-consent request of the gentleman.

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

The previous question was ordered.

The SPEAKER. The question is on the resolution.

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

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 345, nays 1, not voting 87, as follows:

[Roll No. 252]

YEAS—345

Abernethy	Arends	Bevill
Abourezk	Ashbrook	Biester
Abzug	Ashley	Bingham
Adams	Aspin	Blackburn
Alexander	Aspinall	Blanton
Anderson, Calif.	Baring	Boggs
	Barrett	Boland
Anderson, Ill.	Begich	Bolling
Andrews, Ala.	Belcher	Bow
Andrews, N. Dak.	Bell	Brademas
	Bennett	Brinkley
Annunzio	Bergland	Broomfield
Archer	Betts	Brotzman
Brown, Mich.	Hathaway	Pike
Broyhill, N.C.	Hawkins	Pirnie
Broyhill, Va.	Hays	Poage
Buchanan	Hébert	Poff
Burke, Mass.	Hechler, W. Va.	Price, Ill.
Burleson, Tex.	Heckler, Mass.	Pryor, Ark.
Burlison, Mo.	Helstoski	Purcell
Burton	Henderson	Quie
Byrne, Pa.	Hicks, Mass.	Quillen
Byrnes, Wis.	Hicks, Wash.	Railsback
Byron	Hillis	Randall
Cabell	Hogan	Rangel
Caffery	Holifield	Rarick
Camp	Horton	Reuss
Carey, N.Y.	Hosmer	Rhodes
Carney	Hull	Riegle
Carter	Hungate	Roberts
Casey, Tex.	Hunt	Robinson, Va.
Cederberg	Hutchinson	Robison, N.Y.
Celler	Ichord	Rodino
Chamberlain	Jacobs	Rogers
Chappell	Johnson, Calif.	Roncalio
Chisholm	Johnson, Pa.	Rooney, N.Y.
Clausen, Don H.	Jonas	Rooney, Pa.
	Jones, Ala.	Rosenthal
Clawson, Del	Jones, N.C.	Rostenkowski
Clay	Jones, Tenn.	Roush
Collier	Karth	Rousselot
Collins, Ill.	Kastenmeier	Roybal
Collins, Tex.	Kazen	Runnels
Colmer	Kemp	Ruppe
Conable	King	Ruth
Conte	Kluczynski	Ryan
Conyers	Koch	Sandman
Coughlin	Kuykendall	Sarbanes
Crane	Kyl	Satterfield
Culver	Kyros	Saylor
Daniel, Va.	Landgrebe	Scherle
Daniels, N.J.	Latta	Scheuer
Danielson	Leggett	Schmitz
Davis, Ga.	Lennon	Schneebeli
Davis, S.C.	Link	Schwengel
Davis, Wis.	Lloyd	Scott
de la Garza	Long, Md.	Sebelius
Dellenback	Lujan	Seiberling
Dellums	McClory	Shipley
Denholm	McClure	Shoup
Dennis	McCollister	Shriver
Dent	McCormack	Sikes
Devine	McCulloch	Skubitz
Dickinson	McDonald, Mich.	Smith, Calif.
Dingell		Snyder
Dorn	McFall	Spence
Dow	McKay	Springer
Dowdy	McKinney	Stafford
Downing	McMillan	Staggers
Drinan	Mahon	Stanton, J. William
Duncan	Mailliard	
Dwyer	Martin	Stanton, James V.
Eckhardt	Mathias, Calif.	
Edmondson	Mathis, Ga.	Steed
Edwards, Ala.	Matsunaga	Steele
Edwards, Calif.	Mayne	Steiger, Ariz.
Erlenborn	Mazzoli	Stokes
Evans, Colo.	Meeds	Stratton
Evins, Tenn.	Melcher	Stubblefield
Fascell	Metcalfe	Symington
Findley	Michel	Taylor
Fisher	Mikva	Teague, Calif.
Flood	Miller, Calif.	Teague, Tex.
Flowers	Miller, Ohio	Thompson, Ga.
Forsythe	Mills, Ark.	Thompson, N.J.
Fountain	Minish	Thone
Fraser	Mink	Tiernan
Frelinghuysen	Minshall	Udall
Frenzel	Mitchell	Ullman
Frey	Mizell	Van Deerlin
Fulton, Pa.	Mollohan	Vanik
Fuqua	Monagan	Veysey
Galifianakis	Montgomery	Vigorito
Garmatz	Moorhead	Waggonner
Gaydos	Morgan	Waldie
Gettys	Morse	Wampler
Giaimo	Mosher	Ware
Gibbons	Moss	Watts
Gonzalez	Murphy, Ill.	Whalen
Goodling	Myers	White
Grasso	Natcher	Whitehurst
Gray	Nedzi	Whitten
Green, Oreg.	Nelsen	Wiggins
Green, Pa.	Nichols	Williams
Griffiths	Nix	Wilson, Charles H.
Gross	Obey	
Grover	O'Hara	Winn
Gude	O'Konski	Wright
Hall	O'Neill	Wyatt
Hamilton	Passman	Wydler
Hammer-schmidt	Patman	Wylie
	Patten	Yates
Hanley	Pelly	Yatron
Hanna	Pepper	Young, Tex.
Hansen, Idaho	Perkins	Zablocki
Hansen, Wash.	Pettis	Zion
Harvey	Peyser	Zwach
Hastings	Pickle	

NAYS—1

Reid, N.Y.

NOT VOTING—87

Abbitt	Foley	Mills, Md.
Addabbo	Ford, Gerald R.	Murphy, N.Y.
Anderson, Tenn.	Ford, William D.	Podell
		Powell
Badillo	Fulton, Tenn.	Preyer, N.C.
Baker	Gallagher	Price, Tex.
Biaggi	Goldwater	Pucinski
Blatnik	Griffin	Rees
Brasco	Gubser	Reid, Ill.
Bray	Hagan	Roe
Brooks	Haley	Roy
Brown, Ohio	Halpern	St Germain
Burke, Fla.	Harrington	Sisk
Clancy	Harsha	Slack
Clark	Howard	Smith, Iowa
Cleveland	Jarman	Smith, N.Y.
Corman	Keating	Steiger, Wis.
Cotter	Kee	Stephens
Delaney	Keith	Stuckey
Derwinski	Landrum	Sullivan
Diggs	Lent	Talcott
Donohue	Long, La.	Terry
Dulski	McCloskey	Thomson, Wis.
du Pont	McDade	Vander Jagt
Edwards, La.	McEwen	Whalley
Eilberg	McKevitt	Widnall
Esch	Macdonald, Mass.	Wilson, Bob
Eshleman		Wolff
Fish	Madden	Wyman
Flynt	Mann	Young, Fla.

So the resolution was agreed to.

The Clerk announced the following pairs:

Mrs. Sullivan with Mr. Baker.
Mr. Addabbo with Mr. Mills of Maryland.
Mr. Blatnik with Mr. Price of Texas.
Mr. Brasco with Mr. Bray.
Mr. Macdonald of Massachusetts with Mr. Clancy.
Mr. Fulton of Tennessee with Mr. Cleveland.
Mr. Murphy of New York with Mr. Smith of New York.
Mr. Cotter with Mr. Talcott.
Mr. Clark with Mr. Esch.
Mr. Brooks with Mr. Eshleman.
Mr. Delaney with Mr. Goldwater.
Mr. Howard with Mr. Harsha.
Mr. Sisk with Mr. Gubser.
Mr. Slack with Mr. Brown of Ohio.
Mr. St Germain with Mr. Burke of Florida.
Mr. Roe with Mr. Reid of Illinois.
Mr. Gallagher with Mr. Powell.
Mr. Foley with Mr. Keating.
Mr. Donohue with Mr. Whalley.
Mr. Diggs with Mr. Podell.
Mr. Dulski with Mr. Terry.
Mr. Eilberg with Mr. Badillo.
Mr. Mann with Mr. Keith.
Mr. Biaggi with Mr. Halpern.
Mr. Anderson of Tennessee with Mr. Derwinski.
Mr. Madden with Mr. du Pont.
Mr. Pucinski with Mr. Widnall.
Mr. Preyer of North Carolina with Mr. Bob Wilson.
Mr. Flynt with Mr. Young.
Mr. Wolff with Mr. Wyman.
Mr. Stuckey with Mr. Fish.
Mr. Smith of Iowa with Mr. Gerald R. Ford.
Mr. Jarman with Mr. Thompson of Wisconsin.
Mr. Kee with Mr. Thone.
Mr. Landrum with Mr. Lent.
Mr. Abbitt with Mr. McCloskey.
Mr. Edwards of Louisiana with Mr. McEwen.
Mr. Long of Louisiana with Mr. Martin.
Mr. William D. Ford with Mr. McDade.
Mr. Griffin with Mr. Steiger of Wisconsin.
Mr. Stephens with Mr. McKevitt.
Mr. Harrington with Mr. Rees.
Mr. Hogan with Mr. Haley.
Mr. Corman with Mr. Roy.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. 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. 234) to amend title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be committed for detention or imprisonment in any facility of the U.S. Government except in conformity with the provisions of title 18.

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. 234, with Mrs. GRIFFITHS 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. Pursuant to the rule, general debate will continue for not to exceed 3 hours, 1½ hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 1½ hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Internal Security.

Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 45 minutes; the gentleman from Virginia (Mr. POFF) will be recognized for 45 minutes; the gentleman from Missouri (Mr. ICHORD) will be recognized for 45 minutes; and the gentleman from Iowa (Mr. ASHBROOK) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Madam Chairman, I yield myself 10 minutes.

Madam Chairman, I rise in support of H.R. 234, to amend title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be committed for detention or imprisonment in any facility of the U.S. Government except in conformity with the provisions of title 18, and I yield myself such time as I may consume.

WHAT THE BILL DOES

As amended by the Committee on the Judiciary, this bill does two things: First, it prohibits the imprisonment or other detention of citizens by the United States except in situations in which some congressional statutory authority for their incarceration exists; and, second, it repeals the Emergency Detention Act—title II of the Internal Security Act of 1950—which provides general authorization for the establishment of detention camps and imposes certain conditions on their use.

I hasten to add that no President has ever used or tried to use the provisions of the Detention Act. Nevertheless, repeal of these provisions is of vital symbolic significance. The issue is whether or not a free people will knowingly tolerate intimidation of fellow citizens by the maintenance of repressive legislation. The enactment of this repeal measure is needed if we wish effectively to answer the question: Do we, in America, need detention camps?

BACKGROUND

H.R. 234 is one of 17 identical bills sponsored or cosponsored by 159 Members of the House. Its salient purpose is to prohibit the establishment of detention camps and to repeal the existing Emergency Detention Act of 1950 which grants authority for the establishment of such camps.

The Emergency Detention Act was enacted as title II of the Internal Security Act of 1950, the year in which the Korean war began. It established procedures for the detention of individuals—not who are charged with or arrested for committing crime, but individuals who are "deemed likely" to engage in espionage or sabotage during a period of "internal security emergency."

Although no President has invoked these provisions, their mere existence has aroused much concern among American citizens, including especially minority groups, lest the Detention Act become an instrument for detaining American citizens who hold unpopular beliefs and views. Groups of Japanese-American citizens regard the act as potentially permitting a recurrence of the roundups which resulted in detention of Americans of Japanese ancestry in 1941 and subsequently during World War II. I join the 159 sponsors of the legislation in urging that the Emergency Detention Act should be repealed.

LEGISLATIVE HISTORY

In the 91st Congress, H.R. 11373 and a number of identical measures that would have prohibited detention camps and would have repealed the Emergency Detention Act, were referred to the Committee on the Judiciary. On the other hand, H.R. 1157 and a number of House bills which would have had a comparable effect, were referred to the Committee on Internal Security. In addition, S. 1872, which provided for the repeal of the Detention Act, was passed by the Senate and thereupon was also referred to the Committee on Internal Security.

In the interest of expeditious and conclusive action—the Senate bill, S. 1872, having been referred to the Committee on Internal Security—Chairman Celler indicated to the chairman of the Internal Security Committee that if that committee was planning early action on S. 1872 the Committee on the Judiciary would defer consideration of the legislation before it. Subsequently, hearings were held by the Internal Security Committee. Ultimately, on September 14, 1970, that committee reported a clean bill, H.R. 19163, introduced by Chairman ICHORD and the gentleman from Ohio (Mr. ASHBROOK).

By that date, the Internal Security Committee had completed its 11 days of hearings. It had heard testimony from 28 Members of the House, all of whom advocated—and none of whom opposed—repeal.

Notwithstanding the action of the Senate and notwithstanding the views and testimony of Members of the House in favor of repeal, the bill reported by the Internal Security Committee, instead of repealing the Emergency Detention Act, would retain and amend that act by adding a number of new provisions to it. The 91st Congress adjourned before a rule was granted, so that floor consideration of the Ichord-Ashbrook bill was not accomplished. In the present Congress, the Committee on Internal Security favorably reported without amendment H.R. 820, a measure identical with H.R. 19163 which it had reported in the 91st Congress.

As I have indicated, 159 Members of the House have, in the present 92d Congress, reiterated their support for measures repealing the Emergency Detention Act. They have done this by sponsoring identical measures which would be, and have in fact been, referred to the Judiciary Committee.

In view of this large number of Members who, with full knowledge of the fact that in the 91st Congress the Internal Security Committee rejected the idea of repeal and substituted a bill merely amendatory of the Emergency Detention Act, have nevertheless introduced repeal bills that would be and were referred to our committee, we concluded that respect for the wishes of these many Members called for action on the bills pending before us.

JUSTICE DEPARTMENT VIEWS

At the hearing before the Judiciary Subcommittee, the Justice Department witness testified that—

The Department of Justice is unequivocally in favor of repealing Title II of the Internal Security Act.

He added that—

In the judgment of this Department, the repeal of this legislation will allay the fears and suspicions—unfounded as they may be—of many of our citizens. *This benefit outweighs any potential advantage which the Act may provide in a time of internal security emergency.* (Emphasis supplied)

More recently, in a communication addressed to the chairman of the Committee on Internal Security in response to his request for the views of the Department of Justice on H.R. 820, the Deputy Attorney General declared:

The amendments to this Act, contained in H.R. 820 do not alter the Department's opinion that the Emergency Detention Act should be repealed. (Emphasis supplied)

The Department of Justice has thus made clear that it believes that the effective discharge of the Attorney General's responsibility for coping with subversion does not require the continued existence of title II. In these circumstances, the continued existence of title II can serve no purpose other than the intimidation of minorities.

THE COMMITTEE AMENDMENT

At the hearing the Department of Justice witness criticized sections 1 and 2 of the bill as introduced. The purpose of these sections was to prohibit detention camps. He said that these sections, which provided that no citizen might be detained in any facility except in conformity with title 18, United States Code, mistakenly assumed that all provisions for the detention of convicted persons are contained in title 18. He pointed to a number of criminal provisions that appear in other titles; for example, titles 21—narcotics; 50—selective service; 26—internal revenue; and 49—airplane hijacking.

To alleviate these problems raised by

the Department of Justice, the committee recommends an amendment that would take the place of sections 1 and 2. The amendment provides that no citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress.

In this way, the legislation also avoids the pitfalls that might be created by repealing the Detention Act by leaving open the possibility that people might nevertheless be detained without the benefit of due process, merely by executive fiat.

In other words, the requirement of legislative authorization would close off the possibility that the repeal of the Detention Act could be viewed as simply leaving the field unoccupied. It provides that there must be statutory authority for the detention of a citizen by the United States. Existing detention practices are left unaffected. Incarceration for civil and criminal contempt, and detention of mental defectives, for example, are already covered by statutes.

COMMITTEE CONCLUSIONS

The committee without dissenting vote agrees with the Department of Justice and the sponsors of repeal legislation that the Emergency Detention Act serves no useful purpose, but, on the contrary, only engenders fears and resentment on the part of many of our fellow citizens.

What is more, the constitutional validity of the statute is subject to grave challenge. The act permits detention of "each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or of sabotage."

This criterion would seem to violate the fifth amendment by providing imprisonment not as a penalty for the commission of an offense or as part of an arrest in the presence of probable cause, but on "mere suspicion that an offense may occur in the future." The act permits detention without bail even though no offense has been committed or is charged. In a number of ways the act violates the first amendment. In a number of ways, also, the provisions of the act for judicial review are inadequate in that they permit the Government to refuse to divulge information essential to a defense.

The concentration camp implications of the legislation render it abhorrent and there is no compensating advantage to be derived from permitting this law to remain on the books. In the committee's opinion the Emergency Detention Act is beyond salvaging, cannot be adequately amended, and should be repealed in toto.

But the committee believes that it is not enough merely to repeal the Detention Act. The act, concededly, can be viewed as not merely as an authorization for, but also in some respects as a restriction on, detention. Repeal alone might leave citizens subject to arbitrary executive action, with no clear demarcation of the limits of executive authority. It has been suggested that repeal alone would leave us where we were prior to 1950. The committee believes that imprisonment or other detention of citizens should be limited to situations in which a statutory authorization, an act of Congress, exists. This will assure that no detention camps can be established without at least the acquiescence of the Congress.

The CHAIRMAN. The gentleman from Wisconsin consumed 12 minutes.

The Chair recognizes the gentleman from Virginia (Mr. POFF).

Mr. POFF. Madam Chairman, I yield myself such time as I may consume. Madam Chairman, I rise in support of H.R. 234.

The central purpose of the bill is to repeal title II of the Internal Security Act of 1950, the Emergency Detention Act of 1950. Since the Emergency Detention Act has never been implemented, since its constitutionality is under challenge, and since it is a source of genuine apprehension for many Americans, I support its repeal.

However, the bill, as introduced and as reported by the committee, does more than repeal; it also prohibits. By amending section 1 of the bill to provide that "no citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress," the committee sought to assure that no detention camps will be established without the acquiescence of the Congress. My purpose is to explain the committee's intent in reporting H.R. 234 with the section 1 amendments.

The bill's sponsors and the committee did not content themselves with a simple repeal of the Emergency Detention Act, because it is far from certain what effect a simple repealer would have on the President's powers to detain persons during an internal security emergency. By viewing the Emergency Detention Act, with its limited procedural safeguards, as a limitation on rather than authorization for the establishment of detention camps, one can argue that, by removing an existing restraint on the President's power, a simple repealer operates to expand rather than contract the Executive's emergency detention powers.

Indeed, House Report No. 92–94, the Internal Security Committee's report on H.R. 820, a bill to amend, and not repeal the act, noted at page 12:

> Surely a consideration of the fact that a repeal of the act removes all restraints upon the Executive and would return us to the status existing in World War II should give us pause.

Although the question of the President's exclusive power to establish internment camps was raised in *Hirabayashi* v. *United States*, 320 U.S. 81 (1943), and in *Korematsu* v. *United States*, 320 U.S. 214 (1944), the question was never decided because the Court found that Congress did, in fact, approve the Executive orders which restrained American citizens by curfew in the former and excluded citizens from a defined area in the latter.

Rather than relying on the uncertainty of a simple repealer, the committee elected to take the more prudent course of insuring that the bill contained an affirmative prohibition against the establishment of detention camps without the consent of the Congress.

As introduced, H.R. 234 contained such a prohibition. The thrust of the first two sections of the original bill was to prohibit the detention of any person except in conformity with title 18 of the United States Code. However, as Assistant Attorney General Robert Mardian accurately observed at the subcommittee hearings on H.R. 234, there are crimes in titles other than title 18 for which a person may rightfully be detained.

Instead of enumerating all of the titles of the United States Code which authorize imprisonment, the committee decided to replace the original sections 1 and 2 with a single provision:

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress.

The sole purpose of this amendment is to assure that no detention camps can be established without the consent of the Congress. It is not the committee's intent to eliminate any detention practices presently authorized by statute or judicial practice and procedure.

"Stop and frisk" powers by law enforcement personnel; searches by border patrolmen and customs officials; detentions of suspects for identification—all would remain unaffected by the committee's amendment. Detentions incident to judicial administration such as those authorized by the judicial authority to maintain order in a courtroom, judicial contempt powers, and the judicial authority to revoke bail or parole, are not within the intendment of the committee's amendment. Certainly, the committee does not propose that detentions presently permitted in the normal course of law enforcement and judicial administration be influenced in any way.

A substitute bill will be offered, I profoundly respect those who will offer it. They are one and all patriotic, highly motivated Americans, I find it painful to oppose them. I must do so.

I must do so because the Judiciary Committee bill affects a complete repeal. The substitute bill is less than that. Less than that is less than enough. Only repeal is adequate.

It is altogether immaterial that the Emergency Detention Act of 1950 has never been used. It is irrelevant that it is unlikely ever to be used. Its simple existence is the predicate for the fear that it might be used. The fear will continue to have some credibility so long as its predicate remains alive.

A wise man once said that if it is unnecessary to have a law, it is necessary not to have it. That is why I prefer the Judiciary Committee bill to the substitute bill.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. ICHORD).

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

The CHAIRMAN. The Chair will count.

Ninety-four Members are present, not a quorum. The Clerk will call the roll.

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

[Roll No. 253]

Abbitt	Ford,	Murphy, N.Y.
Abourezk	Gerald R.	O'Hara
Addabbo	Fraser	Pepper
Anderson,	Frelinghuysen	Pike
Tenn.	Fulton, Tenn.	Podell
Badillo	Gallagher	Powell
Baker	Goldwater	Preyer, N.C.
Biaggi	Griffin	Roe
Blatnik	Gubser	Rooney, Pa.
Brasco	Hagan	Roy
Bray	Haley	St Germain
Brooks	Halpern	Sandman
Brown, Ohio	Hanna	Sisk
Burke, Fla.	Hansen, Idaho	Slack
Carey, N.Y.	Hansen, Wash.	Smith, Calif.
Chamberlain	Harrington	Smith, Iowa
Chisholm	Harsha	Smith, N.Y.
Clancy	Hastings	Springer
Clark	Horton	Stafford
Clay	Howard	Steiger, Ariz.
Cleveland	Jarman	Steiger, Wis.
Corman	Keating	Stuckey
Cotter	Kee	Sullivan
Delaney	Keith	Talcott
Derwinski	Landrum	Terry
Diggs	Lent	Thomson,
Dingell	Long, La.	Wis.
Donohue	McCloskey	Tiernan
Downing	McDade	Vander Jagt
Dulski	McEwen	Whalley
du Pont	McFall	Widnall
Edwards, La.	McKevitt	Wilson, Bob
Eilberg	Macdonald,	Wilson,
Esch	Mass.	Charles H.
Eshleman	Madden	Wolff
Evins, Tenn.	Mann	Wyman
Fish	Mills, Md.	Young, Fla.
Flynt	Mitchell	Young, Tex.
Foley	Morse	

Accordingly the Committee rose; and the Speaker having resumed the chair Mrs. GRIFFITHS, 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. 234, and finding itself without a quorum, she had directed the roll to be called, when 322 Members responded to their names, a quorum, and she submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Madam Chairman, I yield myself 15 minutes.

Madam Chairman, at the outset I believe I should make it clear why I objected to the inclusion of extraneous matter in this debate. I shall continue to object to extraneous matter being included in any revision and extension of remarks. I want to make my reasons perfectly clear.

It is not for the purpose of obstructing this House, but for the purpose of making a substantive point. I happen to feel very strongly on some of the issues presented in this measure. I also happen to feel that my position and the position of a majority of my committee is the true libertarian position.

I am making this point for the purpose of getting the Members of the House to look at the real issues involved in this measure, because, Madam Chairman, as I have said, we are all so busy legislating on everything from the regulation of switchblade knives, which is a city council matter—and I saw that bill come over my desk the other day—to the building of missiles, going to the defense of this Nation, that 90 percent of us do not know what we are voting on 90 percent of the time—and that includes yours truly.

Madam Chairman, we meet today to consider bills which would either repeal or amend the Emergency Detention Act of 1950. As agreed, the bill, H.R. 234, a bill reported from the Judiciary Committee which would repeal the Emergency Detention Act, will be called for consideration. It shall, however, be in order to consider the text of the bill H.R. 820, a bill to amend the act, reported from the Committee on Internal Security, as a substitute for H.R. 234. Other amendments will be in order under the 5-minute rule. I rise in opposition to the enactment of the bill H.R. 234 either as introduced or as amended by the Judiciary Committee.

Based upon intensive investigation of this problem by the Committee on Internal Security, which has primary jurisdiction over the act, I would urge that the text of the bill H.R. 820 be enacted as a substitute for the provisions of H.R. 234. Such an amendment will retain the Emergency Detention Act and at the same time strengthen its liberal aspects. However, should this amendment fail, and it be the will of the House that the act should be repealed, I would then urge a necessary and vital amendment to the bill H.R. 234 in lieu of the Judiciary Committee amendment, the terms of which I have previously advised the Members in a circular letter.

As introduced, the bill H.R. 234 would essentially do two things: It would, first, prohibit the imprisonment or detention of any person, except in accordance with the provisions of title 18, United States Code. Second, it would repeal the Emergency Detention Act of 1950 in toto. The bill in this form was opposed by the Department of Justice. The Department objected to those sections of the bill which would prohibit the detention of persons other than by the provisions of title 18. Title 18, commonly known as the penal code, does not embrace all penal sanctions, many of which are scattered in various other titles of the United States Code. Hence this section of the bill was obviously objectionable. It was accordingly stricken by the Committee on the Judiciary which reported in lieu thereof an amendment providing that—

No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

With this amendment the committee jumped from the proverbial frying pan into the fire. The bill as reported would now do two things:

First, it would repeal the Emergency Detention Act of 1950; and, second, it would also by this most dangerous committee amendment deprive the President of his emergency powers and his most effective means of coping with sabotage and espionage agents in war-related crises. Hence the amendment also has the consequence of doing patent violence to the constitutional principle of separation of powers. While favoring the repeal of the Emergency Detention Act, the Department of Justice likewise opposes the committee amendment, although it takes the position that any such unconstitutional provision could be ignored by the President.

Quite obviously, in light of what this bill H.R. 234 would do as reported, I cannot believe that the Members of this House would agree to its enactment in its reported form. Although many Members of this House are committed to the repeal of the Emergency Detention Act of 1950, they have no purpose, I am sure, to confound the President in the exercise of his constitutional duties to defend this Nation, nor would they wish to render this country helpless in the face of its enemies.

In order to assess the alternatives with which we are faced in our deliberations today, I believe it would be helpful to review briefly the rather complex circumstances leading to the introduction of bills on this subject. It is interesting to note that in the 20 years following the adoption of the Emergency Detention Act of 1950, there was a notable lack of general public interest on this subject until within the past few years. The Communist Party, through the activities of one of its hitherto obscure front organizations, known as the Citizens Committee for Constitutional Liberties, succeeded in focusing national attention upon the act. It was able to do so by playing upon the sensitivities of various minority groups in the context of the riots and developing crises within our cities during the late 1960's.

By means of the widespread dissemination of alarming misinformation concerning the terms and effect of the act, the Communist Party created, first, a widespread concern among black militants that they might be interned under the provisions of the statute which authorizes its application in the event of an insurrection in aid of a foreign enemy. At the same time, they were able to involve Japanese-Americans by making it appear that this act was in some way related to the unfortunate experience of Americans of Japanese ancestry who were detained in World War II. We will recall that during World War II about 112,000 persons of Japanese ancestry, residing in Western States, approximately two-third's of whom were natural-born citizens of the United States, were removed from their homes and placed first in temporary camps and later in 10 "relocation centers" situated in several Western States. At its national convention in 1968 the Japanese-American Citizens League embarked upon a well-organized campaign to seek enactment of legislation to repeal the Emergency Detention Act of 1950. However, the Emergency Detention Act can only be a symbol of what happened to the Japanese. It must also be a false symbol because title II was not enacted until 1950.

The simple fact is that the Emergency Detention Act of 1950 stands as the only legislative barrier to the detention of persons on the basis of race, color, or ancestry. Indeed, if it had been in force in World War II, it would have prevented such indiscriminate detention as then occurred. The act is, in fact, a civil libertarian measure designed to preclude such action as was taken against the Japanese-Americans. It was introduced in the 81st Congress by Senators Kilgore, Douglas, HUMPHREY, Lehman, Graham, Kefauver, and Benton. Who would question their libertarian credentials? It was offered by them as a substitute for title I

of the Internal Security Act of 1950. It was subsequently enacted as title II of the act, and thus established a controlled system of preventive detention with due process safeguards as an effective and reasonable means of coping with sabotage and espionage agents in war-related crises.

To deal with this realistic prospect, the statute enacted a system of preventive detention of hard-core revolutionaries during the period of any proclaimed emergency, with detailed procedures for its administration and the specification of rigorous due-process safeguards.

The Emergency Detention Act may be applied only in the event of, first, an invasion of the territory of the United States or its possessions; second, a declaration of war by Congress; or, third, an insurrection within the United States in aid of a foreign enemy. In any one of such events, and upon the further finding by the President that a declaration of "internal security emergency" is essential to the defense and safety of the territory and people of the United States, the President is authorized, during the period of the proclaimed emergency—which may be terminated by proclamation of the President or by concurrent resolution of the Congress—to apprehend and by order detain "each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or of sabotage."

Persons can be apprehended or detained only upon probable cause and in making the determination of the existence of such cause the apprehending and detaining agencies are authorized to consider evidence of first, whether such person has knowledge of, or has received or given instruction or assignment in, the espionage or sabotage service or procedures of a government or political party of a foreign country, the Communist Party, or any other organization or political party which seeks to overthrow or destroy by force and violence the Government of the United States; two, any past act or acts of espionage or sabotage committed by such person; and, three, activity in the espionage or sabotage operations of, or membership in, the Communist Party or any other organization seeking to overthrow or destroy by force and violence the Government of the United States.

Persons can be apprehended on warrant of the Attorney General who then applies to a "preliminary hearing officer" for an order authorizing the detention of the person in question. On the basis of criteria I previously mentioned, it is the function of the preliminary hearing officer to determine initially whether there is probable cause to detain such person. For this purpose the individual is given a full due-process hearing before the preliminary hearing officer, with right to retain counsel, notice of grounds upon which application for his detention was made, the right to introduce evidence on his own behalf, and to cross-examine witnesses who appear against him, but the Attorney General shall not be required to furnish information the revelation of which would disclose the identity or evidence of Government agents or officers which he believes it would be dangerous to the national safety and security to divulge.

And finding of probable cause by the preliminary hearing officer is subject to review by a Detention Review Board to which the detainee may apply, consisting of nine members, appointed by the President, by and with the advice and consent of the Senate. He is entitled to a full hearing before the Board with all the rights as hereinbefore set forth with respect to his appearance before the preliminary hearing officer. Any person aggrieved by an order of the Board is entitled to judicial review and judicial enforcement in the U.S. court of appeals, with the further right to petition the Supreme Court for review of the action of the court of appeals. Moreover, it is provided that nothing contained in the act shall be construed to suspend or authorize the suspension of the privilege of the writ of habeas corpus.

The rights of the individual do not stop here. If any person suffers a loss of income because he has been compelled to undergo detention without reasonable cause, the board may issue an order for his indemnification. In addition, the Attorney General is authorized at any time to modify the order under which any detainee is detained and to apply lesser restrictions on his movement and activity. It is also provided that no person detained under the title shall be required to perform forced labor any tasks not reasonably associated with his own comfort and well-being, or to confine him in company with persons who are confined pursuant to the criminal laws of the United States or any State.

In short, Madam Chairman, what we have in the act is a practical, necessary, and reasonable program providing detailed safeguards and protection for the rights of individuals thoroughly consistent with the libertarian record and reputation of the sponsors of the act. It was stances which gave rise to the passage of also a far-sighted program. The circumthe act remain very much in existence today. Present events suggest an even more compelling need for such legislation.

Nevertheless, the atmosphere has been polluted by rumors that the Emergency Detention Act would authorize the establishment of "concentration camps" for the incarceration of racial groups and that such camps are presently in existence. We have been advised by the Department of Justice that such disquieting rumors were stimulated and started spreading in 1966, probably as a result of allegations contained in a pamphlet captioned "Concentration Camps, U.S.A." prepared at the request of, and disseminated by, the Citizens Committee for Constitutional Liberties, a front of the Communist Party to which I have already referred. This pamphlet, reviewed by the Internal Security Division of the Department of Justice, was found to be "replete with inaccuracies." It is understandable that many of our loyal citizens might be disquieted by rumors of the existence of concentration camps.

Indeed, the subject thus became a matter of national controversy. In an appearance on NBC's Meet the Press in April 1968, the former Attorney General, Ramsey Clark, had to address himself to the question. He denied without equivocation that concentration camps exist in this country, although he recognized the threat posed by fears that they existed. He is quoted as saying:

> Fear itself is a great threat, and people who spread false rumors about concentration camps are either ignorant of the facts or have a motive about dividing this country.

Nevertheless, however, contrived or maliciously stimulated, it is no wonder that such fears have impelled some of our loyal citizens to seek the outright repeal of an act which they have been led to assume authorizes the establishing of "concentration camps" for the internment of racial groups.

In order to assess this perhaps overly simplistic solution—the repeal of the act—it may be helpful to reflect upon the circumstances surrounding the World War II detention of Japanese Americans.

You will recall that the attack on Pearl Harbor resulted in the destruction of a substantial portion of the U.S. Navy and opened the gates wide to a possibility of an invasion of the United States itself, which we were then ill-prepared to meet. On the west coast, which was the likely path of any invasion, there was a vast concentration of installations and facilities for the production of military equipment, especially ships and airplanes. Of the 126,000 persons of Japanese descent in the United States, citizens and noncitizens alike, about 112,000 resided in California, Oregon, and Washington, and were concentrated in and near the cities of Seattle, Portland, and Los Angeles.

Reacting to the apparent urgencies of the situation, and reflecting the general state of hysteria, every Member of both Houses of Congress from the three west coast States joined in the demand that all persons of Japanese ancestry should be immediately removed regardless of citizenship or of loyalty. Joining in this demand were many distinguished leaders in government and of public opinion, including the Attorney General of California, Earl Warren, lately Chief Justice of the United States, and the influential commentator, Walter Lippmann.

In these circumstances, the President, on February 19, 1942, promulgated Executive Order 9066 in which he recited that the successful prosecution of the war required every possible protection against espionage and sabotage and that by virtue of authority vested in him as President and as Commander in Chief of the Army and Navy, he thereby authorized and directed the Secretary of War, and the military commanders whom he may designate, to prescribe military areas from which all persons may be excluded and with respect to which the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate military commander may impose in his discretion. On February 20, General DeWitt was designated as the military commander of the

Western Defense Command. Then on March 18, 1942, the President by Executive Order 9102 established the War Relocation Authority headed by a Director, the first of which was Milton Eisenhower, charged with the responsibility of formulating and effectuating a program for the removal, relocation, and supervision of persons designated under Executive Order 9066.

Philip M. Glick, a witness before the House Committee on Internal Security who had served as the solicitor for the War Relocation Authority, advised us that the President and Attorney General Biddle, together with Commanding General DeWitt, were of the opinion that while all, or even a substantial majority, of the evacuees were not probably dangerous, that minority which did present a potential danger of espionage and sabotage would be difficult to sift and sort in a short time, and "to play it safe" in the face of a known danger all persons of Japanese ancestry should be evacuated on a group basis. However it is important to recall, said Mr. Glick, that J. Edgar Hoover and the Federal Bureau of Investigation did not concur in this judgment and recommended against the evacuation. It was Mr. Hoover's view that, on the basis of the Bureau's investigation, he could probably within a reasonable period of time identify the relative small number of persons of Japanese ancestry who were potentially seriously dangerous, and that they might be rounded-up by special procedures.

Nevertheless, in the United States, and in Canada likewise, a decision was reached to evacuate all persons of Japanese ancestry from the Pacific coast. A series of civilian exclusion orders followed by which all persons of Japanese ancestry, both alien and nonalien, were excluded from portions of the designated military area, and required to report to a designated civilian control station for orderly evacuation and settlement.

This program in its essential features was supported by a unanimous court consisting of Chief Justice Stone, and Associate Justices, Roberts, Black, Reed, Frankfurter, Douglas, Murphy, Jackson, and Rutledge. The President was upheld in the first test of the program in *Hirabayashi* v. *United States*, 320 U.S. 81 (1943), and subsequently in *Korematsu* v. *United States*, 323 U.S. 214 (1944). In the former, it was held that an American citizen could be restrained by a curfew; in the latter, that he could be excluded from a defined area. However, in *Ex parte Endo*, 323 U.S. 283 (1944) it was held that a citizen of Japanese ancestry, whose loyalty was conceded by the Government, could not be detained against her will in a relocation camp.

Now, Mr. Chairman, there are important lessons to be derived from this experience. It was a simple, direct response to fear, unfounded in fact, which lead to the detention of a racial minority during World War II. I have branded this act as a black page in American History. It was not necessary but it was done. It is a curious fact that an equally unfounded fear now impels that same racial minority to seek the repeal of the one law—the Emergency Detention Act of 1950—which remains as the only existing barrier against the future exercise of executive power which resulted in their prior detention.

It is certainly clear from the plain terms of the act that had it been in existence during World War II, it would have precluded a summary detention, evacuation, or relocation of persons on a racial basis. Nor would it authorize or countenance detention or apprehension of persons for the prevention of sabotage and espionage on any basis without regard to loyalty or probable cause. On principles reiterated in the steel seizure case, *Youngstown Company* v. *Sawyer*, 343 U.S. 579 (1952), undoubtedly if this act were in force during World War II, the group evacuation of American citizens of Japanese ancestry would not have occurred, nor would any such action have been upheld by the court.

That case teaches that where the Congress has acted on a subject within its jurisdiction, sets forth its policy, and asserts its authority, the President might not thereafter act in a contrary manner. Thus the continuing seizure by President Truman of the steel mills, as an exercise of his executive powers during the Korean war, was enjoined because he had not proceeded in accordance with the policies laid down by Congress in the Defense Production Act of 1950 and earlier in the Labor Management Relations Act of 1947. The Court held that he was bound to proceed in accordance with the pronounced policy of the Congress.

The question then is whether the Congress shall express its policy as to the means by which the President, in a war-related emergency, shall be authorized to apply the detention remedy for the protection of the Nation against the ravages of spies or saboteurs, or whether we should wipe the slate clean of such restraints as are now imposed on the executive power by the Emergency Detention Act of 1950. In deciding this important issue, we must clearly divorce ourselves from certain emotional considerations which, if allowed to dictate our course of action, can have only the most unfortunate consequences for the very rights of individuals we seek to protect, including the rights even of those revolutionaries, principally Communist, who do indeed have something to fear from Emergency Detention Act, and would involve others in doing their dirty work to effect its repeal.

We must thus ask ourselves in whose interest would repeal operate? Would it help the present plight or advance the future welfare of the uninformed and the innocent? Or would it redound to the benefit of potential enemies that would seek to destroy the United States of America? Once these questions are squarely faced, and once these implications are dispassionately examined, I believe that the true answer will be plain.

Of course the Emergency Detention Act can be improved and perfected. So can any other measure which has slumbered for 20 years. We can also clarify its provisions. This is precisely what we have sought to do in the terms of the bill H.R. 820.

This bill should serve to relieve the act of those fears expressed by racial minorities by making explicit what is already implied in the act—that no person shall be apprehended or detained pursuant to its provisions on account of race, color, or ancestry. The bill further places in Congress the sole authority for making the determination of fact with respect to insurrections in aid of a foreign enemy, so as to relieve the act of any fears that it will be applied ill advisedly by the President acting alone. In addition, the bill expands the rights of counsel and assures to each individual adequate representation, not only by counsel, but investigative, expert or other services necessary to his representation in all stages of the proceedings, including judicial review, if financially unable to obtain such assistance. It also clarifies criteria which may be applied to individuals for the purpose of determining probable cause for apprehension or detention. I submit that the enactment of the text of the bill H.R. 820 as a substitute for the text of H.R. 234 is the reasonable and libertarian course that should be adopted under the circumstances.

That the act should be retained is the position taken by a majority of the members of the Committee on Internal Security who have lived with this problem and explored its issues in two Congresses. This is indeed the view of a number of constitutional lawyers and scholars whose exceptional expertise on this particular subject is unquestioned. This is indeed a position which finds support in the views of a majority of the Attorneys General of the States of the Union who took occasion to express themselves, at my request, on this issue. All of this appears in the very extensive record of the committee's hearings, a record numbering close to 1,000 pages.

Nevertheless, I am fully aware that reasonable men may differ with respect to the question whether or not we should simply repeal the act and keep the slate clean in nonwar periods with a view toward enacting legislation of this type, or on this subject, only in the period of the emergency it is intended to serve. It is my opinion that a straightforward and outright repeal of the act on that basis would not impair the security interests of this Nation. These interests, however, would be grievously impaired by attaching any condition to that repeal, or to qualify it with any proviso, such as the amendment proposed by the Judiciary Committee which provides that—

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

Such provisos are also opposed by the Department of Justice, and with good reason. They would deny to the President the means of executing his constitutional duties, and could have the effect of rendering him helpless to cope with the depredations of those hard-core revolutionaries in our midst who, in the event of war, may be reasonably expected to attempt a widespread campaign of sabotage and bloodletting, including the assassination of public officials, in aid of the enemy.

Moreover, I would suggest that because of the very nature of technological progress, it is no longer feasible to deny authority to the President to cope with these

problems until that day of crisis. The amendment would neither permit the President to act, nor does the Congress act. On the contrary, the Judiciary amendment insists that the Congress should not act and that it should postpone all action until that day of crisis. But this is the nuclear age. We cannot expect an enemy to hold to the ancient etiquette of war by making formal declarations before undertaking their attack. In this nuclear age we should not expect to be forewarned. Nor is it likely that Congress will be able to sit. If it cannot sit, it cannot legislate. Under no circumstances, therefore, can we afford the luxury of an amendment which is so clearly unwise, unnecessary, and dangerous.

I know it is frightening to some to talk about even the possibility of a nuclear war. But it might happen and I want this Nation prepared if it does happen. We could possibly encounter a situation where the enemy has a Harry Truman, a man who will use the atomic bomb. I fervently hope not, but it could happen.

Hence, if it appears to be the will of the House that the Emergency Detention Act be repealed, I urge that the Judiciary Committee amendment be rejected and the following amendment in the nature of a substitute for it be adopted as follows:

That the prior enactment and repeal herein of provisions of Title II of the Internal Security Act of 1950 (50 U.S.C. 811–826) shall not be construed to preempt, disparage, or affect the powers accorded to or the duties imposed upon the President under the Constitution and other laws of the United States: provided, however, that no citizen of the United States shall be apprehended or detained for the prevention of espionage or sabotage solely on account of race, color, or ancestry.

This amendment would not disturb the President's constitutional powers, while at the same time it would allay the fears of racial groups against such action as was suffered by the Japanese Americans in World War II. This will enable the sponsors of the bills to effect that purpose for which such bills had been introduced by them. Certainly this must be regarded as a satisfactory alternative in the balancing of the vital interests of national security with rights of individuals. It is a solution that should commend itself to the House. It is a result that will be accepted by the vast majority of the people of this Nation.

I feel very strongly that if I can get the attention of the Members of this House, my views will ultimately prevail. I say that because I have a great deal of confidence in the commonsense and in the good judgment of the majority of the Members of this House.

Most people think that when you are talking about title II you are talking about a bill that was drafted by McCarran, that was drafted by MUNDT, and that was drafted by Nixon, who is now the President of the United States. But, my friends, if you think that, I am sorry to advise you that the language you are considering repealing today was not drafted by those three gentlemen; it was drafted by former Senator Douglas from the State of Illinois. He was one of the sponsors. He had his name on the language of the bill. It was drafted by Senator HUMPHREY, it was drafted by Senator Lehman. I do not think there is a man in this body who would question the libertarian credentials of any of those three gentlemen I have mentioned.

There has been, I say, Madam Chairman, more misrepresentation and more false stories printed in the newspapers of this Nation about the real issues involved in this bill, so that I must be constrained to object to any editorial and I must be constrained to object to any radio or television editorial. Since we are living in a day when the editorial page is so often moved up to the front page with the idea of new journalism or advocacy journalism, I will also object to any news articles that might be included.

Mr. CONYERS. Madam Chairman, will the gentleman yield?

Mr. ICHORD. I do not yield to the gentleman at this time. I will be very happy to yield later on, because I think that the reasons of the gentleman who has just arisen are based on rhetoric, they are based on emotion, and they are not based upon logic and commonsense. If you will let me get to my point, I will yield later on, but I do not yield at this time.

On July 26, 1971, I made a speech on the floor of this House about a certain editorial which appeared in the Washington Post. Let me say I am quite blunt sometimes. I happen to be a great defender of the freedom of the press, but I also say quite bluntly that the fourth estate is not living up to its responsibilities in a free society. Let me give you the reason why. I refer you to the RECORD of July 1971, page 27192 where I referred to an editorial of the Washington Post attacking me for doing mischief. I sent a copy of my remarks to the Washington Post, and they have not said "Boo" about it. Here is what the Washington Post said back in 1950 when the language of title II was proposed:

We think the proposed bill aims at intelligently selective internment in the real interests of security and not the indiscriminate punishment of persons for the mere holding of disloyal or odious opinion.

But on July 20, 1971, they took after me for doing mischief, as they put it, for trying to retain this bill on the statute books.

Madam Chairman, I was rather amused when the phone calls went out of the whip's office saying this—and I do not question the sincerity of TIP O'NEILL; I do not question his integrity—but the question went out of the whip's office something like this: "Are you for H.R. 234 which would prevent concentration camps, or are you for H.R. 820 which would provide for concentration camps"?

If I had been the whip, I would have asked the question the other way. If you want to deal in emotions, in rhetoric, I would have asked the question: "Are you for H.R. 234 which would prevent apprehension of espionage agents or sabotage agents in time of war, or are you for H.R. 820 which would permit the apprehension of espionage agents or saboteurs in time of war"?

Madam Chairman, I have brought many measures since I have been chairman of the House Committee on Internal Security to this floor. There has never been a close vote on any of the questions presented. I hope, Madam Chairman, that I have always prevailed upon those questions because of reason and logic and not upon the ground of emotion or rhetoric. And I do believe if I can get the attention of the House in these busy days my views will prevail on this matter.

I do not disagree with many of the speeches made on the floor of the House today or with the rhetoric, but I do disagree very vehemently with the logic and let me say to the gentleman from Illinois (Mr. RAILSBACK)—and I shall yield to the gentleman since I mentioned his name, if he so desires, at a later time—that the House Committee on the Judiciary has not done its work well. You have jumped from the frying pan into the fire. I do not think you can sustain your position, if the House will proceed to be governed by logic and commonsense.

Madam Chairman, H.R. 234, the bill reported by the Committee on the Judiciary, and H.R. 820, the bill reported by the House Committee on Internal Security, deal with some very profound, complex, and, I might say, interesting and serious constitutional and philosophical issues. Title II which H.R. 234 repeals and which H.R. 820 amends has a very interesting origin, as I have stated before and I will say it again. Its original authors were not McCarran, Nixon, or MUNDT, but Senators Douglas, Lehman, HUMPHREY, and Kefauver, men whom I doubt anyone in this Committee of the Whole House on the State of the Union would question their libertarian traditions.

It was originally offered by its authors as a substitute to head off title I. In fact, Madam Chairman, the distinguished chairman of the Committee on the Judiciary offered a very similar bill in the House.

So the issues involved here are not easy if one really examines the problem.

For example, the Department of Justice—and I hope that the Members listened to the gentleman from California (Mr. SMITH) in his presentation of the rule—the issues are not simple.

The Justice Department apparently had real difficulty in making up its mind. One of those "leaked" editorials that we see so often around Washington, written by Evans and Novak, said at one time that the Department of Justice had decided to come out against repeal of title II of the Internal Security Act. And I will be quite frank with you, we cannot get a position out of the Department of Justice on this nefarious amendment which the Committee on the Judiciary has attached to the bill.

Let us look at the report of the Department of Justice on H.R. 234, and let me quote to you from it:

In the judgment of this Department, the repeal of this legislation will allay the fears and suspicions—unfounded as they may be—of many of our citizens.

Since when, Madam Chairman, do we ask a legislative body in a free society to legislate on the basis of unfounded fears? If there are unfounded fears, then let us

educate the people and eradicate those unfounded fears, but do not ask me as a legislator to legislate on the basis of unfounded fears.

Now, I have a great deal of respect for the gentleman from Hawaii (Mr. MATSUNAGA). We might not agree, but I think we have always disagreed without being disagreeable, but let us look at the position of the gentleman from Hawaii, the original position—and the Committee on the Judiciary has jumped around until I do not even know where they are, and I highly suspect they do not know where they are at the present time.

Look at the hearings. These are the hearings of the Committee on the Judiciary, and these are the hearings of the House Committee on Internal Security. I want to say that the Committee on the Judiciary's hearings consisted of 105 pages and 23 pages of the hearing record covers a report of the House Committee on Internal Security. They held 1 day of hearings. They heard no witnesses on the other side.

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

Mr. ICHORD. Madam Chairman, I yield myself 10 additional minutes.

They heard no witnesses on the other side.

These are the hearings of the House Committee on Internal Security on this difficult problem, 1,000 pages.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. ICHORD. I do not yield at this time.

There were 37 witnesses that appeared on both sides of the question.

I do not think that the subcommittee from the Committee on the Judiciary really understands—if you examine its position—really understands the issues in this matter.

Let us go back to the position of the gentleman from Hawaii. He uses title II as a symbol of what happened to the Japanese in World War II—and I can well understand that, and I have said that it is a black page in American history when the Federal Government picked up 112,000 Japanese without regard to their loyalty, without even any regard to whether they were American citizens or whether they were aliens. And you know who was hollering the loudest at that time for the picking up of the 112,000 Japanese? Walter Lippmann was one of them, Chief Justice Earl Warren was another one—and the truth of the matter is if there had not been so many Japanese in Hawaii they would have picked up every Japanese in Hawaii and moved them inland some place in the United States of America.

I contend that my position is a true civil libertarian position. I think that what the committee has done—and I recall the words of a great Roman legislator in the early days of the Roman Republic who said, "You can destroy liberty in the name of liberty." This may well be what we are about to do if you pass this measure—destroy liberty in the name of liberty.

When this matter first came up containing outright repeal only, this was the question I raised. I said, "I have no objection to the outright repeal—except—and this was a measure originally introduced by the gentleman from Hawaii—except that if we repeal it, are we really not back where we started from in World War II?

Title II can only be a false symbol of what happened to his people because title II was not on the books in World War II. If title II had been on the books, I think that what did happen—and I again brand it as a black page in American history—what happened to the Japanese people would not have happened because you would have had to look at the individual case. They would not have been able to detain a whole race of people.

Do you know, I remind the gentleman from Hawaii, who the man was who complained about what was being done to the Japanese? Do you know who the lone voice was? He is a man who, in these unrestful and emotional times is known by many in this body as an authoritarian, a man by the name of J. Edgar Hoover who objected to the picking up of a whole people and moving them away from the west coast. While the great people who called themselves liberals, Chief Justice Warren and Walter Lippmann were shouting that all the Japanese people be placed in concentration or detention camps.

So do not talk to me in terms of liberal and conservative. Do not talk to me in terms of rhetoric or emotion. Talk to me about facts and logic because I am just as much opposed to concentration camps or detention camps as the gentleman from Hawaii.

Today, you had better watch what is going on in the world. What happened here in Washington just a few months ago? Do you think they were not using detention when they arrested 13,000 people as fast as they did? There is one way to talk liberty and there is another way to act liberty. I want to be governed by law. I do not want to be governed by the discretion of man.

So when I raised those questions, what happened? They went to work and they came up with the Railsback amendment. It said—we repeal title II and no person shall be detained except in accordance with the provisions of title 18 of the United States Code. The Department of Justice then really complained—they objected to the amendment.

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

Mr. ICHORD. Not at this time. I will yield briefly, but the gentleman will be able to use his own time because I am running short on time. But I will gladly yield to the gentleman later because I want to get at the guts of this issue.

The Department of Justice objected and they still object to the Railsback amendment. Then at a later time, you amended your amendment to read:

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

What kind of double talk are we dealing with here? Let us go to page 5 of your report.

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

Mr. ICHORD. I do not yield at this time. I shall later on. Let us look at your report: Page 5, the middle of the page, the last two lines:

> It has been suggested that repeal alone would leave us where we were prior to 1950. The Committee believes that imprisonment or other detention of citizens should be limited to situations in which a statutory authorization, an Act of Congress, exists. This will assure that no detention camps can be established without at least the acquiescence of the Congress.

I repeat:

> The Committee believes that imprisonment or other detention of citizens should be limited to situations in which a statutory authorization, an Act of Congress, exists.

What kind of double talk is that? You repeal the only statuory authorization that permits you to pick up a potential saboteur or espionage agent—one whom you have reasonable cause to believe is a saboteur or espionage agent, and then you say that they must be apprehended under statutory authorization. These are the points, I would say to the gentleman from Illinois, that I am complaining about, and I have the lessons of history, the promise of history on my side. All you have is the altruistic hope of the future.

Let me go back to World War II when this dastardly act happened to the Japanese. There was no law on the books. President Roosevelt, in the hysteria of war—and we are dealing with a wartime measure, let us get that straight; we are dealing strictly with a wartime measure—President Roosevelt issued the order, Congress very quickly acquiesced, and the Supreme Court of the United States confirmed. This was the issue in the Hirabayashi case, a unanimous opinion of the Supreme Court. Do you know what the Supreme Court said in that opinion? I am talking about law—I am talking about facts, law, logic—do you know what the Supreme Court said in that case?

They said that the power of the President in a wartime emergency situation is the power to prosecute war successfully and, Members of the House, that is a pretty broad power.

So without any act on the books, we had this dastardly act happen to the Japanese. If it had been on the books in 1942, it could not have happened. Now I yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. I thank the gentleman for yielding.

I wish to begin by saying that in the Hirabayashi case, if the Members want to check the accuracy of your statement and read that case, I think they will find that there was an act of Congress which ratified the Executive order——

Mr. ICHORD. I suggest to the gentleman from Illinois, let us get down to the question. Was I inaccurate in my statement when I said that Chief Justice Stone, writing the unanimous Supreme Court opinion, said that the power of the President in wartime is the power to prosecute the war successfully? All you have got to do is to read my hearings.

Mr. RAILSBACK. I think that statement is accurate, but what the gentleman

is forgetting to include is the fact that there was an act of Congress——

Mr. ICHORD. Tell the Members of the House what it was. There was no act of Congress authorizing President Roosevelt to set up relocation camps, and you are not telling the Members of this House that; are you? Are you telling the Members of this House that Congress authorized the relocation of the Japanese? Are you? Answer yes or no.

Mr. RAILSBACK. Are you yielding to me?

Mr. ICHORD. Yes; I yield to you.

Mr. RAILSBACK. All I am suggesting is that the best thing Members of the House can do is to read the case and decide for themselves what that case held.

Mr. ICHORD. Right. Do you feel the Members of this House will have the opportunity to do so?

Mr. RAILSBACK. I think that many of them probably will, if they want to take the time. If they want to decide for themselves, that is the best thing they could do.

Mr. ICHORD. Right.

Mr. RAILSBACK. You are not denying that there was an act of Congress which generally ratified all the actions that were taken by the Executive, are you?

Mr. ICHORD. Let me say to the gentleman from Illinois you will not find enough in your hearings for the Members to decide for themselves, because you did not even hear the opposition to the repeal of title II. I will say to the gentleman, however, that Congress never specifically ratified the detention of Japanese-Americans in relocation camps, but it was done anyway and no one stopped it, not even the Supreme Court.

Mr. RAILSBACK. Was not the gentleman asked to come before our committee?

Mr. ICHORD. The gentleman's committee has 33 pages of my report included in this little 100 pages of hearings.

Mr. RAILSBACK. It is my understanding that the gentleman was asked to come before our committee.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Madam Chairman, it is very obvious from listening to the debate, as I have since about noon, that there are many facets of this controversy. It is a controversy, and let us clearly call it that. It is not my intention in these few minutes either to broaden the controversy or to try to cover all the points. If I could, I would like in my own way to zero in on at least one or two facets which concern me and throw those out to the committee for its decision.

I am somewhat reminded, as I listen to the debate and particularly to the statements of my friends who are supporting H.R. 234, of a story told by Will Rogers at the time of the First World War, when the U-boat menace was top news. He came onto the stage and said in his inimitable fashion: "I have figured out a way to lick the U-boat menace. All you have to do is heat the English Channel up so all the U-boats will come popping out." Somebody in the audience said, "But how do you heat up the channel?" He said, "Oh, I leave that to the experts. I have the ideas, and I leave the details to the experts."

I get the feeling that is not unlike what my friends have in mind when they say we should wipe everything off the books and we should let the President, Justice Department, and Supreme Court work out the details when the time of national peril comes again.

I happen to think anybody who supports H.R. 234—and I say it without rancor or bitterness—is putting the Congress in the position of saying that after 30 years of experience we, in effect, are going to completely move out of this field of dealing with national security emergencies. I happen to believe—and I believe it very honestly, and I hope the gentleman from Virginia will listen to my remarks because, certainly, I would like his comments because I respect his constitutional sagacity and ability—that in many ways we may have opened up a Pandora's box if we follow the course that seems indicated and totally repeal title II.

Again I am not going to try to broaden the controversy. Let us look at it only from the point of view of an act of Congress. I suggest H.R. 820 is an act of Congress which would constrain the President's power, whereas H.R. 234 would open up the President's power. Why do I say this? One of the things is that I have observed and been concerned about in my 10 years of service here is all the laws on the books passed by the Congress giving the President reserve or standby powers. For example, we have only to look back to August 15 of this year—I have the President's statement here. He started out by saying, "I hereby declare a national emergency," and he went on to make a statement on our economic problems and the actions his administration was taking.

How many Members in this Chamber know of all the laws on the books that give the President authority to call a national emergency and take certain actions? Look at H.R. 234 in that light. H.R. 234 supposedly on the basis of the statement of its proponents would constrain the President's action, because it says:

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

All right. There are many statutes, and we could detail them here, which give the President the authority and the power to declare a national emergency. I particularly point this out to the gentleman from Virginia. What position are we going to be in if the President of the United States declares an emergency under one of the many acts of Congress giving him the right to declare an emergency? What if he then, as a part of that declaration, says it is necessary to round up x number of persons, whoever they might be, if the President feels they may contribute to or pose a threat. What position are we going to be in at that time to contend that the President does not have that broad power? He has acted under an act of Congress? We have said we allow him any number of areas where he can enact or declare a national emergency in his discretion at the time as he deems it necessary.

In his discretion, at the time he deems it necessary, he can take the actions necessary, just as President Nixon took certain actions on August 15 after saying, "I declare a national emergency."

Compare that situation to H.R. 820. In H.R. 820 Congress says the exact opposite. We are saying the President cannot do this alone but can only take broad actions on a specific declaration; not on a general proposal on the books already given to the President, but on a specific declaration of a national emergency with the concurrence of Congress.

There is the restraint. There is the check we are all looking for—the concurrence of Congress. Otherwise, we have, in effect, given our concurrence in advance by authorizing him to declare an emergency and take those steps he deems necessary.

I happen to believe that the President, under the Railsback proposal—any President at a future time—after declaring a national emergency, pursuant to authority granted by an act of Congress, could do the very thing we are trying here to check. I believe this honestly and sincerely.

Let us look at some of the Supreme Court cases, to see if they back up this contention.

In the first place, I am greatly concerned by the statement in one of the cases during the Truman administration, Youngstown Sheet & Tube Co. against Sawyer. The Supreme Court very specifically said since Congress had refused the President the power to seize plants in the past the President could not thereafter undertake to seize the plants on his own.

That is an excellent precedent for what we are talking about. If we by legislation tell the President he cannot seize or detain, then it would be unconstitutional for him to do it. It is doubtful that he would even try to do this in the face of a stated legislative proscription. What if there is no statement?

If, on the other hand, we remove every vestige of restraint and legislative control that we put in H.R. 820, and make it open to what Mr. RAILSBACK has said, an act of Congress, at that point I think the exact opposite reasoning, under Youngstown Sheet & Tube, prevails, and the Supreme Court can logically say:

> Congress removed themselves from this field; therefore, the President, under his actions as a part of a national emergency, has the built-in power to take those steps necessary to fulfill the prescribed goals as set out in the act of Congress.

Moreover, these powers exercised by President Roosevelt were upheld so the precedents would be against what seems to be the mood of the House today.

I believe we would make a great mistake in not pinning this power down. This, as I see it, is the major difference between H.R. 234 and H.R. 820.

Again, trying to keep it in this narrow area, and not opening it up to rhetoric or opening it up to a wide debate on what the Justice Department means when it says this or that but just staying on that one point of a restraint on

Executive power, I happen to believe H.R. 234, if enacted, will virtually leave us stripped naked against the great power, the ability to exercise power, which the President has.

On the other hand, H.R. 820 very carefully delineates what the President can do. H.R. 820 clearly states that Congress must by concurrent resolution on that specific question, on that specific case, agree that there is an insurrection, before any broad power would be given to the President.

I believe very strongly, if we have any understanding, as a few of us try to do—and I am certainly no constitutional expert—it is very, very clear under the Constitution that the Government right now has the power to detain those who are reasonably deemed to threaten violence or to threaten the safety of the community, even in time of peace.

There is no question that the Government has the power to protect itself. Time after time justices have said the Constitution of the United States is not a suicide pact, that the Government at certain times has to take certain actions.

In the great depression, when many actions were taken by the President—for example, Home Building & Loan Association against Blasdell—the Supreme Court said at that time:

> While emergency does not create power, emergency may furnish the case for the exercise of power.

This is basically what upheld the President of the United States in 1941, for his exercise of Executive power in a situation that created peril at that time.

Who is to say the same thing could not happen 5 or 10 or 15 years from now? I, for one, would feel very much better if all the written restraints in H.R. 820 were on the books, operating to restrain the President, operating to prevent the President from the abuse of power under a declaration of national emergency.

If I make no other point, I hope in all of your minds you will try to bring back all of the emergency enactments of standby authority that we have had in the last 20 years giving the President the right to declare emergencies in specific instances and then take further steps. If he has the right to act and if we have given him that right to act, then in what way have we restrained him from taking whatever steps he may deem to be necessary at that time? I feel that we have taken very little initiative in the past in checking the great powers that we have given the President. I understand certain aspects of the original declaration of emergency of 1950 are still in existence at this time. The President of the United States still has certain powers rooted in that declaration of emergency under a statute enacted by the Congress and which President Truman exercised in 1950. Some authority of the President still stems from that original declaration of emergency.

So we have all of this talk here. I say to you—and I am saying this without rancor or bitterness or carping, but I say this honestly as a concerned constitutionalist—all of the talk about H.R. 234 restraining or filling the gap misses the mark, because in most cases Congress has already acted in this field. How could you possibly say in reading H.R. 234 again—how could you possibly say that there would not be this authority if we have already given the President such authority to declare an emergency? It says "No citizen shall be imprisoned or otherwise detained except pursuant to an Act of Congress." Every declaration of emergency, I say to my fellow Members here, would come from an act of the Congress which would be the enabling act and which would give the President the precise power that we are here trying to check.

Contrast that, on the other hand, without going far afield, with the very carefully delineated exercise of authority that the President can have under H.R. 820, only with the concurrent approval of the Congress and with all of the other rights written into the law.

Bear in mind, in keeping with the Youngstown case, the Supreme Court clearly tried to address itself to that area where Congress acted and to those areas where it has not acted.

H.R. 234 will in effect put us in a position of not acting in the area and allowing the President to go ahead with whatever he deems necessary under the exigencies which may arise in a national emergency. We see what happened in 1941 and 1942. Why would we choose to return to that legal situation?

Mr. PUCINSKI. Will the gentleman yield?

Mr. ASHBROOK. I make that point specifically, and I am glad to yield to the gentleman.

Mr. PUCINSKI. I believe that the gentleman raised an excellent point in drawing a distinction between the two bills. Perhaps it is wise that the committee does not go into the many different aspects of the bill raised here.

It is not true that H.R. 234 deals only with detention camps and only with eliminating those detention camps, forbidding their maintenance? We do not go into the other things that you have been discussing. That is why it seems to me to bring these extraneous issues into this debate, meritorious as they may be, is to mislead the House as to what the bill is designed to do.

Mr. ASHBROOK. That is not exactly correct, I say to my friend, because what we are doing is repealing title II in H.R. 234 which provides for the very precise things that I am talking about. If you take all of these off the books, you go back to the situation that we had in 1941 and 1942 with no restraints whatever on the President and no delineation of congressional intent as to due process of law, and so forth.

Mr. PUCINSKI. If the gentleman will yield further?

Mr. ASHBROOK. I yield to the gentleman.

Mr. PUCINSKI. We will not disturb any of those rights of the President. We say clearly that we have an act of the Congress to do these things. We are dealing precisely with the detention camps themselves as a physical structure. We do not disturb all of the other powers of the President. That is the very point I am making.

Mr. ASHBROOK. That is not so, because there are powers in title II that you are taking off by removing the entire section. So, that is not, I will say to the gentleman, that is not accurate. What we are trying to do in H.R. 820 is to go further and say that the powers granted under title II—yes, we think they are a little bit strong and therefore we are circumscribing them with specific actions that the Congress has to take.

Mr. PUCINSKI. As you have properly stated, every one of the President's actions must be taken under specific provisions. We say that no person shall be imprisoned or detained except pursuant to an act of Congress.

So, we do not disturb the machinery now set up to deal with espionage and all these other things. What we are saying in this bill, simply stated, is that we are not going to continue the existence of detention camps in the United States any longer.

The gentleman from Missouri talked about the situation in Washington and, granted, there was a large number of young people arrested but the authorities found the accommodations with which to handle them and did not have to send them to a detention camp.

So, when there is an emergency—when the President declares an emergency or when the police declare an emergency—there is a manner in which to deal with that situation. But we are saying in H.R. 234 that we are striking down the maintenance and operation of detention camps.

Mr. ASHBROOK. I think it would be far simpler to pick up 112,000 people under H.R. 234 than it would be under H.R. 820. I do not think the gentleman can dispute that.

Mr. YATES. Madam Chairman, will the gentleman yield?

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

Mr. YATES. But we will have eliminated detention camps and the onerous stigma that detention camps have.

I think the essential purpose of title II is to get rid of detention camps.

If you want to, under another bill, formulate another system by which you propose to channel the areas of Presidential power to deal with a situation or situations such as have been described here, we can deal with that in another bill at another time. But the main thing here is to get rid of detention camps.

Mr. ASHBROOK. Do I understand my good friend to say that you can probably pick them up better under H.R. 234 than H.R. 820?

Mr. YATES. Well, we have jails and other detention facilities. Why use detention camps?

Mr. ASHBROOK. Yes, we have jails in this country. The gentleman knows we do not have detention camps. If 100 are arrested, they must be detained somewhere whether it be in a jail or a baseball field. The same is true if 1,000 or 10,000 are involved.

Mr. ICHORD. Madam Chairman, will the gentleman yield?

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

Mr. ICHORD. The gentleman from Illinois has asked a "wife beating question." There are no detention camps in the United States and I hope there will never be any detention camps.

Mr. YATES. There were detention camps. There were detention camps in which the Japanese Americans were placed.

Mr. ICHORD. Yes; and that was not done by operation of law. That was done by Executive order.

Mr. YATES. That may very well be, but the fact remains that there were detention camps, and the purpose of this bill is to rid the United States of detention camps or the possibility of their use in the future.

Mr. ASHBROOK. I am glad the gentleman has made that point because just as surely as we are here today debating this bill, if a situation arises 10 years from now there will be some detention facilities provided for people, if needed. I think it would be far better to have the specific authority written into law. I think we must recognize the fact that when and if an emergency arises that some people are going to be rounded up whether saboteurs, insurrectionists or anarchists, just as it was true when President Roosevelt took action along this line. I think we would be far better off in having some written congressional intent.

Mr. YATES. There is no need for detention camps today, is there?

Mr. ASHBROOK. I do not think so.

Mr. YATES. Of course there is not. That is why title II should be repealed.

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

Mr. ASHBROOK. I yield to the gentleman from Connecticut.

Mr. GIAIMO. The gentleman in his responses is disturbing me very much. The gentleman sounds like he is saying, if I understand the gentleman correctly, that in an emergency we are going to be faced with the fact that Americans in large numbers are going to be rounded up and detained.

Mr. ASHBROOK. I think I indicated people may be picked up—saboteurs, insurrectionists, anarchists. This is probably so, I would say to the gentleman.

Mr. GIAIMO. I am hoping that we are not ever going to repeat historically the dastardly act which we committed in World War II of rounding up well over 100,000 Americans. Further, I would like to say, with the highest regard for my friend from Missouri when he was speaking of the Japanese, they were not Japanese. They were American citizens who were rounded up and put in detention camps and without justification. As long as I am a Member of this Congress I shall do everything possible to help pass a law which will prohibit any President from rounding up citizens and putting them into a detention camp.

Mr. ASHBROOK. I would merely respond to my colleague by asking—do you feel that is what is going to happen under H.R. 234?

Mr. GIAIMO. It happened in World War II. As I understand the present bill it will prohibit a President from doing that in the future.

Mr. ASHBROOK. If I felt as sure as you do in that statement, I would have no qualms whatsoever in supporting H.R. 234.

Mr. ICHORD. Madam Chairman, will the gentleman yield?

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

Mr. ICHORD. Madam Chairman, I would say to the gentleman from Ohio that I do not entirely agree with the gentleman. I do feel that the language of the amendment drafted by the gentleman from Illinois under the Youngstown Steel case would prohibit even the picking up, at the time of a declared war, at a time of an invasion of the United States, a man whom we would have reasonable cause to believe would commit espionage or sabotage. Now, I do feel, I would say this to the gentleman from Connecticut (Mr. GIAIMO) that if this bill, as amended in H.R. 820, had been on the books in World War II when this dastardly act happened to the Japanese, that would not have occurred.

Mr. GIAIMO. Japanese Americans.

Mr. ICHORD. Japanese Americans. They were all Nisei. They were American citizens, and I will say further to the gentleman from Illinois that this was done without regard to whether they were aliens or American citizens, and there were some aliens among them, but most of them were American citizens. If this proposed statute had been on the books I do not think what happened to the Japanese in World War II would have happened.

I am just as strong against detention camps and concentration camps as the gentleman from Connecticut is.

Mr. GIAIMO. If the gentleman will yield further, really what I am concerned about is that the gentleman in the well is sounding as if he is justifying detention of American citizens in time of war.

Mr. ASHBROOK. No, I do not believe the gentleman understands my point. My point was that I said that if President Roosevelt could do this in 1942 that future Presidents might do the same thing at a future time, and we just cannot predict what the circumstances might be at any particular future time. That is why I think that H.R. 820 is superior to H.R. 234, and I feel that it is far better to have the congressional intention on the books, as to how such a situation should be handled. If H.R. 234 would do that, then I would support it, but I do not believe it does.

Mr. WILLIAMS. Madam Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Madam Chairman, I would like to call the attention of the Members to the fact that H.R. 820 contains a provision which would specifically prevent the type of action that was taken in 1942 8 years before the Internal Security Act of 1950 was adopted. The provisions in H.R. 820 would prevent the rounding up of American citizens from all over the country and placing them in detention camps. These questions would have to be considered on an individual basis.

Mr. ASHBROOK. Madam Chairman, may I inquire how much time I have consumed?

The CHAIRMAN. The gentleman from Ohio (Mr. ASHBROOK) has consumed 22 minutes.

Mr. ASHBROOK. Madam Chairman, I have several commitments for time, and I will therefore reserve my time at this point.

Mr. POFF. Madam Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Madam Chairman, I think that at the very beginning we ought to try to clarify what is involved in the two bills, the so-called Railsback amendment, and what the major sections of the two bills are.

In respect to the bill, H.R. 234, there really are two major actions that are taken. One, title II of the Internal Security Act of 1950 is repealed. This is the title of the Internal Security Act which has never been employed. That is true—it has never been used. It is offensive to many people because it represents something to them that occurred in 1942 before there was ever any kind of act on the books. Namely, President Roosevelt by Executive order, with a very broad-based support from people in both parties including Attorney General Warren of California, issued this order, the effect of which was subsequently ratified by the Congress. That Executive order had the effect of clearing people out of certain areas, primarily in States on the west coast—Oregon, Washington, California, and the western part of Arizona. It provided a curfew in some areas, and people of Japanese descent, whether they were American citizens or not, were required to be in their homes during the night.

But beyond that, the Executive order did one thing that many of us feel was very offensive. It required the detention of Japanese American citizens. It is very true that this was not done initially pursuant to an act of Congress, but an act of Congress ratified it and this was used to justify the detention in some of the cases that came before the Supreme Court.

Now, to correct something that the gentleman from Missouri said, and which I did not have a chance to answer. He mentioned that originally the bill, H.R. 234, contained a Railsback amendment which referred to title 18, United States Code. It would require that an executive official could detain citizens only under title 18.

That was not my language. That language was in the original Matsunaga bill. There were objections to that language by the administration, and this adminstration strongly and unequivocally endorsed the repeal of title II. There is no dispute about that. Our administration came out "four square" for the repeal of title II of the Internal Security Act.

Then during the hearings it became apparent that what was said in the Internal Security Committee report might be true. If we struck that reference to title 18, which the administration felt was tomorrow and repealed title II, we would not be correcting what happened in the year 1942 when the citizens were

rounded up, because that was not done pursuant to the Internal Security Act. The Internal Security Act came at a later time.

Let me just continue by saying that the Committee on the Judiciary felt that it would be wise not only to repeal title II but to try to do something about what occurred in 1942 through President Roosevelt's Executive order.

So we came up with an amendment that says:

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

In other words, an Executive has to have some kind of congressional authorization before he can detain a citizen.

I want to talk just for a minute about remarks made by my friend, the gentleman from Ohio. He pointed out that if an emergency today were declared, this language would permit more internments and more detentions than would otherwise be the case.

We are talking about detention camps. With the language I have added, we are not preventing American citizens from being arrested if there is probable cause to determine that they may be guilty of committing an offense or conspiring to commit an offense. That can still be done. My amendment has no intention to affect the present operation of the criminal law in any way. It does only one thing: It takes from the Executive whatever authority he would have in the absence of statute to detain citizens in camps. Of course, no act of Congress can take from the Executive any powers guaranteed to him by the Constitution. But the Executive does not have a constitutional right to set up detention camps.

My amendment does not affect the criminal law. It does not affect current Executive practices, such as stop-and-frisk, or judicial detention, such as that upon the denial of bail or that following contemptuous conduct.

Now that brings me to the bill that has been introduced—and the amendments are the Internal Security Act itself.

As one of the members of Subcommittee 3 of the Judiciary Committee which held hearings on this legislation, and as one of 159 cosponsors, I urge my colleagues to support H.R. 234. Quite simply, this vital legislation would accomplish two objectives. It would prohibit the establishment of detention camps and would repeal the existing Emergency Detention Camp Act of 1950 which grants authority for the establishment of such camps.

It is my understanding that a substitute bill will be offered which would modify the Emergency Detention Act by adding a number of so-called procedural safeguards. I should briefly like to explain why prohibition and repeal, not cosmetic modification, is both a moral and legal imperative.

During World War II, in an episode everyone today agrees was one of the darkest pages in this country's history, approximately 112,000 Japanese on our west coast, approximately two-thirds of whom were natural-born citizens of the United States, were forced to leave their homes and placed in 10 "relocation centers" situated in several Western States. This action was taken by the President by Executive order as an exercise of his war powers and without explicit direction of the Congress. The purpose of this step was said to be the prevention of espionage and sabotage. No criminal or civil charges of any kind were ever brought against any individual evacuee, or against the evacuees as a group.

Subsequently, Congress in 1950 enacted, over President Truman's veto, the Emergency Detention Act as title II of the Internal Security Act of 1950. This act gives the President the power to proclaim an "internal security emergency" in the event of any of the following: First, invasion of the United States or its possessions; second, declaration of war by Congress; and third, insurrection within the United States in aid of a foreign enemy. Following such declaration, the President, acting through the Attorney General, is given authority to detain persons—

> If there is reasonable ground to believe such person probably will engage in, or probably will conspire with others to engage in acts of espionage or sabotage.

The act details the procedures for apprehension, detention, and continued incarceration of such persons.

Title II has been surrounded by controversy from the very beginning. It was passed during a time that some have termed a period of national hysteria and uncertainty. The expansion of the Soviet Union into the countries of Europe and Asia, the blockade of Berlin, the invasion of South Korea, the concern at home about a Communist conspiracy against the institutions of our Government, were the background events of and set the climate for the enactment of the Emergency Detention Act. The chairman of the House Judiciary Committee, then as now, the distinguished gentleman from New York, led the fight against it on the floor and characterized it as "vicious, totalitarian, un-American." Senator McCarran, chairman of the Senate Judiciary Committee, criticized it as "a concentration camp measure, pure and simple." And Senator MUNDT voiced opposition to the establishment of "concentration camps into which people might be put without benefit of trial, but merely by executive fiat."

Since the authority conferred by title II has never been invoked, the constitutionality of its provisions has never been tested. In my opinion, title II violates a number of our established freedoms and constitutes a serious threat to our constitutional rights. Before detailing the specifics, I would briefly like to examine three cases decided by the Supreme Court during World War II which are often cited as upholding the legality of detention camps.

In Hirabayashi, the Court upheld the validity of a curfew order directed at all persons of Japanese ancestry. In Korematsu, the Court upheld the validity of an order excluding a citizen of Japanese ancestry from the area where he resided. Whatever the merits of these cases, and whatever they may say about the increased power of government in time of war, they do not sanction the use of detention camps. In the third case, Ex parte Endo, the Court unanimously refused to sanction the detention of a citizen conceded to be loyal. The latter case was decided on the question of leave procedure at the relocation center, and for that reason, the Court did not rest its decision on constitutional issues. The Court, in reviewing the constitutional safeguards against the infringement of individual liberty, did state, however:

> The Constitution is as specific in its enumeration of the civil rights of the individual as it is in its enumeration of the powers of his government. Thus it has prescribed procedural safeguards surrounding the arrest, detention, and conviction of individuals. Some of these are contained in the Sixth Amendment, compliance with which is essential if convictions are to be sustained. And the Fifth Amendment provides that no person shall be deprived of liberty (as well as life or property) without due process of law. Moreover, as a further safeguard against invasion of the basic civil rights of the individual, it is provided in Art. 1, Sec. 9 of the Constitution that "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless in Cases of Rebellion or invasion the public Safety may require it."

The provisions of the Emergency Detention Act raise serious constitutional questions.

Following declaration of an "internal security emergency," the President, acting through the Attorney General, is "authorized to apprehend and by order detain each person as to whom there is a reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or sabotage." Detention of a person is thus authorized not on the basis of an overt act committed in violation of law, but on the basis of a mere suspicion that a person may in the future engage in acts or conspiracies which are, in fact, already prohibited by Federal law. Such reasonable belief could presumably be based upon rumor, association, relationship, or membership in a group. Former Justice Goldberg, in commenting on this part of the act, stated:

> I suggest to you that there is no precedent in our law for incarcerating—or, indeed even prosecuting—on such a theory. In my judgement, the constitutional right to due process precludes incarceration on the basis of the alleged probability of some future action.

Other provisions likewise run against traditional judicial process.

The warrant which authorizes an individual's apprehension is issued neither by a court nor magistrate, but by officers designated by the Department of Justice, the prosecutor in the case. Such a procedure is foreign to our judicial process and cause for serious concern.

Once in custody, the detainee may request a hearing but there is no guarantee of a prompt arraignment—only that a hearing is to be held "within 48 hours after apprehension, or as soon thereafter as provision for it may be made." The person detained is not brought before an impartial judge but before a "preliminary hearing officer" appointed by the prosecution. And if the hearing officer sustains the detention, the only appeal is

to a detention review board appointed by the President.

And how, under such procedures, does a detainee prove his innocence? How does he defend the vague charge that someone believes he will commit a criminal act sometime in the future?

At both the hearing and review board level, the detainee is deprived of substantial due process guarantees.

There is no right to a jury trial.

The right to be appraised of the grounds on which detention was instituted or of the full particulars of the evidence, the right to confront one's accusers, and the right to cross-examine witnesses, are all severely limited if not eliminated if, in the Attorney General's—not a court's—opinion, to divulge information would be dangerous to national security.

Further, while an adverse decision of the Review Board does finally give the detainee the right to seek judicial review, such review can occur only after the detainee receives a written order of the Review Board. There is no time limit which the Board must meet in rendering such an order. Additionally, review is not before a trial judge with power to hear evidence on the validity of the arrest and detention, but only before a Federal appellate court which is bound by the fact-findings of the Board if supported by reliable, substantial and probative evidence. And here again, the Attorney General may withhold information the revelation of which would be dangerous to U.S. security.

Before leaving the constitutional deficiencies inherent in the Emergency Detention Act, the still valid 1886 decision of the Supreme Court in *Ex parte Milligan,* 4 Wall. 2, 120–121, wherein the military trial of a civilian during the Civil War was invalidated. The Court rejected the Government's claim that the traumas of war required a dimunition in personal liberties, and held that no citizen may be tried before a special tribunal or denied the right to a jury trial while the civilian courts remain open. The Supreme Court, in reaffirming, and quoting in part from Milligan in 1962—Kennedy against Mendoza-Martinex—stated:

> The imperative necessity for safeguarding these rights to procedural due process under the gravest of emergencies has existed throughout our constitutional history, for it is then, under the pressing exigencies of crisis, that there is the greatest temptation to dispense with fundamental constitutional guarantees which, it is feared, will inhibit governmental action. "The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances." *Ex Parte Milligan,* 4 Wall. 2, 120–121. The rights guaranteed by the Fifth and Sixth Amendments are "preserved to every one accused of crime who is not attached to the army, or navy, or militia in actual service". *Id.,* at 123. "If society is disturbed by civil commotion—if the passions of men are aroused and the restraints of law weakened, if not disregarded—these safeguards need, and should receive, the watchful care of those intrusted with the guardianship of the Constitution and laws. In no other way can we transmit to posterity unimpaired the blessings of liberty, consecrated by the sacrifices of the Revolution."

The court said that there was only one exception to its rule—that of impossibility; that is, situations calling for martial law. The Court made quite clear that the exception was a very limited one:

> Martial law cannot arise from a threatened invasion. The necessity must be actual and present; the invasion real, such as effectually closes the courts and deposes the civil administration.
>
> It follows, from what has been said on this subject that there are occasions when martial rule can be properly applied. If, in foreign invasion or civil war, the courts are actually closed, and it is impossible to administer criminal justice according to law, *then,* on the theatre of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority, thus overthrown, to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course. As necessity creates the rule, so it limits its duration; for, if this government is continued *after* the courts are reinstated, it is a gross usurpation of power. Martial rule can never exist where the courts are open, and in the proper and unobstructed exercise of their jurisdiction. It is also confined to the locality of actual war. Because, during the late Rebellion it could have been enforced in Virginia, where the national authority was overturned and the courts driven out, it does not follow that it should obtain in Indiana, where that authority was never disputed, and justice was always administered. And so in the case of a foreign invasion, martial rule may become a necessity in one state, when, in another, it would be "mere lawless violence!" 4 Wall. at 127

Title II of the Internal Security Act of 1950 does not square with Ex parte Milligan on constitutional grounds.

In addition to the constitutional weaknesses of the Emergency Detention Camp Act, there are at least two other aspects of the act which deserve the attention of the Members. Both were clearly stated by representatives of the Justice Department in support of its unequivocal position favoring repeal of the act.

The first, quite simply, is that the act is unnecessary. Repeal of title II would in no way jeopardize the internal security of the United States since "there is a considerable amount of statutory authority to protect the internal security interests of our country from sabotage or espionage or other similar attack."

The second and more complex reason was stated by Deputy Attorney General Kleindienst as follows:

> (The statute) has aroused among many of the citizens of the United States the belief that it may one day be used to accomplish the apprehension and detention of citizens who hold unpopular beliefs and views.

He concluded that "the repeal of this legislation will allay the fears and suspicions—unfounded as they may be—of many of our citizens," and that "this benefit outweighs any potential advantage which the act may provide in a time of internal security emergency."

In view of the above, we must ask to what extent can anything less than repeal be satisfactory.

In my opinion, none of the modifications which will be offered by the gentleman from Missouri can cure the constitutional defects or the apprehension engendered by the Emergency Detention Camp Act. The only solution is repeal, not modification, of title II.

But if Congress is to go on record as against detention camps, simple repeal is not sufficient. The committee bill provides an affirmative prohibition against detention camps except as authorized pursuant to an act of Congress. It was the opinion of the committee that the absence of a Supreme Court decision on the constitutionality of detention camps might permit a return to pre-1950 status if repeal was the only action. Thus, in order to prohibit arbitrary executive action, H.R. 234 assures that no detention of citizens can be undertaken by the Executive without the prior consent of the Congress.

To those who would view such a prohibition as in derogation of the Executive's wartime powers, I would refer them to the Youngstown steel seizure case—343 U.S.C. 579—where the Supreme Court indicated even though a President might have broad wartime powers, they can be limited by acts of Congress.

As stated by the report of the Committee on Internal Security in reporting H.R. 820, the bill offered as a substitute to H.R. 234:

> (The Youngstown) decision teaches that where the Congress has acted on a subject within its jurisdiction, sets forth its policy, and asserts its authority, the President might not thereafter act in a contrary manner . . .
>
> The question then is whether Congress shall express itself upon this subject, or whether it shall wipe the slate clean of such restraints as are now imposed on the executive power by the Emergency Detention Act of 1950. Are we, in short, to be returned to the open period of World War II?

Neither modification nor repeal can remove what amounts to a national disgrace. There can be no justification for detention camps on constitutional, national security, moral, or other grounds. I urge you to vote for H.R. 234 as presently constituted.

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

Mr. ICHORD. Madam Chairman, I yield 2 minutes to the gentleman for the purpose of answering a question.

The CHAIRMAN. The gentleman from Illinois is recognized for 2 minutes.

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

Mr. ICHORD. Madam Chairman, I was rather interested in one point the gentleman from Illinois made. That was in regard to potential espionage agents and saboteurs. I would ask the gentleman from Illinois one question. Does the gentleman believe that in this country today there are people who are skilled in espionage and sabotage that might pose a possible threat to this Nation in the event of a war with nations of which those people are nationals or citizens?

Mr. RAILSBACK. Yes.

Mr. ICHORD. Does the gentleman believe then that if we were to become engaged in a war with the country of those nationals, that we would permit those people to run at large without apprehending them, and wait until after the sabotage is committed?

Mr. RAILSBACK. I think what would happen is what J. Edgar Hoover thought

could have happened when he opposed the actions that were taken in 1942. He suggested the FBI would have under surveillance those people in question and those persons they had probable cause to think would commit such actions. Does the gentleman know that J. Edgar Hoover was opposed to detention camps, because he thought he had sufficient personnel to keep all these potential saboteurs under surveillance, and that they could prosecute the guilty in accordance with due process?

Mr. ICHORD. I agree, but we were in the hysteria and the emotions of war. On what ground does one pick up and apprehend and arrest the trained saboteur and espionage agent?

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

Mr. ASHBROOK. Madam Chairman, I yield the gentleman 2 minutes for the purpose of answering a question.

The CHAIRMAN. The gentleman from Illinois is recognized for 2 minutes.

Mr. ASHBROOK. Madam Chairman, I thank the gentleman from Illinois for his statement. I think he has helped to clarify one point. In some of the readings I have seen some people—certainly not the gentleman from Illinois—try to promulgate the idea that H.R. 234 would make it impossible to detain such persons. I think the gentleman correctly stated that any rights the Government now has would operate under his proposal. I think that is accurate.

Mr. RAILSBACK. I agree.

Mr. ASHBROOK. So certainly it does not operate in any way as a restraint against any powers the Government now has.

The gentleman did make one statement I would like to have amplified, because I did not quite understand it. The implication was people would have due process, and I am wondering what due process would be available to any detainee picked up for similar reasons now or in the future under operation of his proposal that was not available to the 112,000 Japanese in 1941 or 1942.

Mr. RAILSBACK. He would have the right for one thing to have a complaint signed, and he would have the right to confront his accusers, and he would have the right to a trial, and so on.

Mr. ASHBROOK. Did they not have those rights at the time?

Mr. RAILSBACK. My understanding is that they were not arrested and charged. They were simply herded up. I think the gentleman is correct in pointing out his bill may afford some additional privileges that were not employed under the 1942 Executive order, which incidentally delegated authority to the military instead of civilians to execute the order. H.R. 820 does contain some additional safeguards but violates otner constitutional probations I have mentioned.

Mr. ASHBROOK. That may be true, but is it not accurate, when we get right down to it, there are no constitutional provisions available now which would not have been available to the Japanese then?

Mr. RAILSBACK. That is not true at all.

Mr. ASHBROOK. I believe we had a right to those things then.

Mr. RAILSBACK. We cannot just order a group of people to herd themselves up and evacuate a particular area.

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

Mr. ASHBROOK. I yield the gentleman 1 additional minute.

Madam Chairman, if the gentleman will yield further, I would certainly point out to my friend, the gentleman from Illinois, the right to a trial by jury is not new. It was available to those people in 1941 and 1942.

The only exception is that they did not get it.

Mr. RAILSBACK. That is right; they did not get their constitutional right.

Mr. ASHBROOK. There is no guarantee. From what the gentleman is saying, he thinks there would be these guarantees in the future. The same laws were on the books. The same Constitution was operating. They did not get it. How can he say they would get it now?

Mr. RAILSBACK. Because we are saying in here that detention cannot occur unless pursuant to an act of Congress.

Mr. YATES. Madam Chairman, will the gentleman yield?

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

Mr. YATES. What we are worried about is the question of mass arrests. That is what the gentleman from Ohio talks about and that is what the gentleman from Missouri talks about.

On the question of mass arrests, we have the hysteria of the time, which was evident.

I have here the interrogation by the Congress of the general who was in charge of the Japanese-American evacuation from the west coast.

Mr. McCLORY. Madam Chairman, I rise in emphatic support of H.R. 234 which, if enacted, would repeal title II of the Internal Security Act of 1950—better known as the Emergency Detention Act.

As a cosponsor of one of the bills whose provisions are embodied in H.R. 234, I must say to my colleagues that, in my opinion, the Emergency Detention Act has no place in our free society. In fact, a leading constitutional authority at one of our national law schools has predicted that although Congress in the Internal Security Act has authorized the detention not only of enemy aliens but also of American citizens without conviction of any crime, "it can be anticipated that the legislation will be held unconstitutional as violative of the fourth, fifth, and sixth amendments." Nevertheless, Mr. Chairman, it would be unfortunate if the patently unconstitutional provisions of this law should attach to one more U.S. citizen before it could be declared unconstitutional and stricken from our laws. That is why we must pass H.R. 234 today.

Madam Chairman, during the course of hearings in the Judiciary Committee, my colleagues and I were reminded that in World War II, more than 110,000 persons of Japanese origin—more than two-thirds of whom were native-born citizens—were ordered evacuated and excluded from the west coast, on the grounds of "military necessity." One of these individuals was rescued from the detention camp at Poston, Ariz., and came to our home to live with our family. This young man spent about 3 years with Mrs. McClory and me and our children and I became, in a sense, his stepfather. The loyalty of this young Nisei and his devotion to our Nation and its high principles was evidenced throughout this entire experience. Madam Chairman, there is nothing in the account of that period which can justify or excuse legislation of the type which we seek now to repeal.

In reference to the repeal legislation which we are considering today, Deputy Attorney General Richard Kleindienst recommended the elimination of this offensive law in a message to the House Judiciary Committee in which he said:

> In the judgment of this (Justice) Department, the repeal of this legislation will allay the fears and suspicions—unfounded as they may be—of many of our citizens. This benefit outweighs any potential advantage which the Act may provide in a time of internal security emergency.

Madam Chairman, the Emergency Detention Act has been referred to by some as "a hangover from the fear-ridden 1950's." Whether we view it on this light or in the light of past experience, we must now act to remove this abominable law from the books of the greatest government ever devised by man.

Madam Chairman, I implore you in the name of human justice and decency to cast a resounding vote in favor of H.R. 234.

The CHAIRMAN. The Chair would advise the gentlemen that the Chair will recognize for participation in the debate in a manner to equalize time, and the gentleman from Wisconsin (Mr. KASTENMEIER) will have the right to close debate at the end.

Does the gentleman from Wisconsin care to yield time?

Mr. KASTENMEIER. Madam Chairman, I yield 10 minutes to the distinguished chairman of the Committee on the Judiciary (Mr. CELLER).

Mr. CELLER. Madam Chairman, I heard with interest the statement made by the distinguished gentleman from Missouri, the chairman of the Internal Security Committee. He proclaimed his liberalism and believes that liberalism to be consistent with the setting up of a detention camp.

We all have memories of totalitarianism and memories of what Hitler did and what Mussolini did under the aegis of totalitarianism, and how they set up concentration camps.

So the very idea of a detention camp connotes Hitler and Mussolini, and I need not assure the Members that those gentlemen were the very antithesis of liberalism.

I suggest that the gentleman from Missouri might check his thoughts, when he indicates he is an advocate of liberalism, and realize that he might be an advocate of liberalism if he helps to do away with the idea of detention camps.

Mr. ICHORD. Madam Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman, although the gentleman was not too generous in his yielding.

Mr. ICHORD. I want to point out to the gentleman from New York that I did yield to the gentleman from Illinois for a question. So long as I have time I will yield to other Members.

I am very happy that the gentleman corrected his comment, since I am not from Illinois but I am from Missouri. I am from Missouri, and I have to be shown.

Mr. CELLER. That is a good State, too.

Mr. ICHORD. I might disagree with the gentleman, but I do not question his motives. I am sure the gentleman does not question my motives and sincerity, also.

Mr. CELLER. I cannot swallow the idea of liberalism in juxtaposition with detention camps, because under the detention camp provision men can be boxed and put into enclosures without trial, without hearing, without knowing who is accusing them, without due process—all of which is unconstitutional and is the very opposite of liberalism.

I ask what is conjured up when we mention detention camps? I am sure there are conjured up the horrors and cruelties of Hitler and of Stalin.

What are the portents when we give the Government the right to herd people into barbed-wire stockades or camps? It is that we are heading into a Mussolini Fascist, Peronista Falangist, or Communist regime?

Are Nazi or Fascist detention camps consistent with our much vaunted freedoms? You will all agree emphatically "No." Are these camps essential for our Nation's preservation or for the welfare of our citizens? There is not a scintilla of evidence in support of such a contention except in the imagination of those beknighted ones who see a Communist or saboteur under every bed. Should our statute books be cleansed of every semblance of detention camps? Yes. The very term is as obnoxious as an alligator. Does the detention camp provision violate the Constitution? It certainly does in many respects. The fifth amendment is violated since there can be imprisonment not as a penalty for the commission of an offense but upon the mere suspicion that an offense may occur in the future. It is offensive also from the constitutional viewpoint that the detention is permitted without bail even though no offense has been committed or even charged.

Does the Ichord substitute provide for the retention of detention camps? Yes. It is indeed, in my humble opinion, a monument of repression. The detention camp provision was made law in 1950, some 21 years ago. The provision was never used. Only a foolhardy President would have used his power to set up such a disgraceful institution.

Who supports the elimination of the detention camp provisions? There are 157 cosponsors. The group is bipartisan in nature. Repeal has the unanimous support of the Committee on the Judiciary. It has the support of the administration. There is the emphatic objection of the Department of Justice to the detention camps, and the Senate has also, in the 91st Congress, passed a bill eliminating the Detention Act.

Who supports the retention of detention camps? The distinguished gentleman from Missouri (Mr. ICHORD) and several members of his committee. However, he seeks to make the retention substitute more palatable by sugar coating it with some procedural changes. However, there is an old saying that you cannot make a purse of silk out of a sow's ear. You might be able to put a dog's tail in a mold, but you cannot make the dog's tail straight. Try as hard and as sincerely as the gentleman from Missouri will—and he is sincere—he cannot remove the evil out of the substitute. He can change the label, but he cannot change the contents of the bottle.

Mr. ICHORD. Will the distinguished gentleman yield to me?

Mr. CELLER. I yield to the gentleman again.

Mr. ICHORD. I greatly appreciate the eloquence of the distinguished gentleman in the well, and I want——

Mr. CELLER. I want to say that I have the highest respect for the gentleman.

Mr. ICHORD. I want to assure the gentleman in the well that I am just as much opposed to detention camps as the gentleman in the well is. However, has the gentleman in the well had the opportunity to check the bill which the gentleman introduced in 1960 and which is much more harsh than title II?

Mr. CELLER. Conditions and circumstances alter cases. And, in those days we were faced with matters that would be deemed entirely alien today.

Mr. ICHORD. But, my friend, that is exactly the point.

Mr. CELLER. Consistency is the hobgoblin of fools.

Mr. ICHORD. I will say to the gentleman in the well that I always try to be consistent. I may not be consistent but I endeavor to be consistent. I do disagree with the gentleman.

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

Mr. CELLER. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. The record will show that the gentleman in the well led the fight in the House against the enactment of title II. The gentleman in the well labeled title II as being "vicious" and "dictatorial." He led the fight against the enactment of title II.

Mr. CELLER. You know, I want to thank the gentleman from Hawaii for making that statement. Sometimes one forgets. You know there are some qualms of old age and I suffer from some of those qualms. There are three qualms of life. First is the lapse of memory, and now I cannot remember the other two. [Applause, laughter.]

Mr. ICHORD. I want to applaud the gentleman in the well——

Mr. CELLER. I am glad the gentleman from Hawaii reminded me of my opposition to what the gentleman from Missouri is proposing.

So, I want to close, with all due respect to the gentleman from Missouri, by asking, "Are we not already adequately protected against the sappers and miners of our national security?"

I would say that the Department of Justice testified beyond peradventure of doubt that we are fully covered against espionage and sabotage and treason and the like and that there is no need whatsoever for the detention camp provision.

Madam Chairman, great harm and havoc can result from a long unused provision providing for detention camps.

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

Mr. KASTENMEIER. Madam Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. CELLER. The detention camp provision is like a carbuncle or canker on the body politic and must be removed.

Second, there is manifest fear, especially among blacks and other minorities that the detention camps may be used against them. Shivers run down the spines of these people at the very thought of detention camps. They fear that some beknighted one might issue an order establishing detention camps and that they might find themseves detainees behind barbed wire.

Madam Chairman, I rise to endorse and support the cogent remarks of the gentleman from Wisconsin (Mr. KASTENMEIER) and to urge prompt and favorable action on H.R. 234, as amended, and reported by the Committee on the Judiciary.

This long-overdue measure would repeal the Emergency Detention Act—title II of the Internal Security Act of 1950—and would forbid the imprisonment or detention of citizens by the United States, except pursuant to legislative authority and due process.

The Detention Act was passed over President Truman's veto in 1950, shortly after the outbreak of the Korean war. I share the view of the more than 159 cosponsors of repeal. Although the Detention Act has never been used, it provokes fear and distrust, violates the civil rights of citizens, and serves no useful governmental function. It belies our much vaunted freedom. It is as loathsome as a hangman's rope to the convict. The act should be repealed outright. Its mere continued existence creates a nagging anxiety among minority groups of citizens, lest the Government repeat the tragic error of the detention of thousands of Japanese Americans at the beginning of World War II. True, this was before title II but the evil prevailed.

Grave constitutional questions raised by the Detention Act have been well stated by Justice Goldberg, testifying before the Internal Security Committee, when he said:

> The law is unconstitutional, unnecessary, and imprudent. There is hardly a sentence contained in the statute which can pass constitutional muster. The tragedy which might result from failure to repeal this legislation is that in order to establish the act's invalidity, large numbers of Americans could be incarcerated for months and even years while the legislation is tested in the courts. Its very existence has caused needless controversy and fear. *Hearings on repeal of the Emergency Detention Act of 1950 (title II of the Internal Security Act of 1950)*, 91st Cong., 2d sess., at 2936 (1970).

To recapitulate: If the President should decide that "insurrection—in aid

of a foreign enemy" is taking place, then detention could be in order if there is "reasonable ground to believe that a person will" either commit or conspire to commit certain crimes. The act does not require that any law shall have been violated; it provides no trial before a judge or jury; it affords no paid counsel; it offers no presumption of innocence. A person could be detained for 48 hours without a hearing. The Government could, in its own discretion, refuse to reveal evidence that might jeopardize the secrecy of its informants.

This lack of procedural safeguards makes it clear why the existence of the Detention Act constitutes a hostile provocation to members of minorities. It has naught to do with the present campaign against crime. Nor is it in the interest of law and order.

I recognize that the distinguished chairman of the Internal Security Committee, in his bill H.R. 820, has attempted to save the Emergency Detention Act by eliminating some of its most glaring faults. That is like trying to cure a cancer with a bandaid. This well-intentioned effort would provide for congressional determination of the existence of an emergency, would prohibit racial or ethnic discrimination in detentions, would provide counsel and compensation of counsel where needed, and would eliminate mere knowledge of subversion as a ground for detention. But the detention camp would remain.

These proposals, however well intended, cannot prevent the Emergency Detention Act from serving as an abhorrent symbol and reminder of totalitarian absolutism. To attempt to dress it up with the habiliments of respectability is like asserting that one can make a piece of silk out of a sow's ear.

The Department of Justice which, after all, has substantial operating responsibility for national security, has unequivocally recommended the repeal of the Emergency Detention Act. It has formally stated that the amendments to the act contained in Chairman ICHORD's bill, H.R. 820, do not alter the Department's opinion that the Detention Act should be repealed.

With this I emphatically agree. The Ichord amendment should be cast into limbo. H.R. 234 should be enacted without further amendment.

Mr. ASHBROOK. Madam Chairman, I yield 10 minutes to the gentleman from Pennsylvania (Mr. WILLIAMS).

Mr. WILLIAMS. Madam Chairman, I rise in support of H.R. 820 as a substitute for H.R. 234. I am motivated by three considerations.

In the first place, I have a deep and abiding concern for the protection of individual rights and civil liberties. I do not wish to see the people of this Nation unprotected by duly constituted authority as some of them were in 1942 when the President of the United States exercised arbitrary and capricious powers to incarcerate Americans of Japanese ancestry. Such an injustice must never again be permitted to happen. H.R. 820 would clearly and firmly prevent detention of any person on the basis of race, creed, or national origin.

In the second place, I do not want to see the President's hands tied by the language of the Kastenmeier subcommittee proposal which would require an act of Congress before any likely subversive or would-be saboteur could be detained. Why lock the barn door after the horse has escaped?

Certainly, we cannot expect a Chief Executive to await congressional action once the Nation is under attack. To adopt H.R. 234 with the Kastenmeier subcommittee amendment would represent an arrogant invasion of the emergency powers of the President. It would also raise the question of the legality of detention for any reason under the whole body of our laws, not just U.S. 18 of the Criminal Code.

Finally, I am convinced that the principal opposition to title II of the Internal Security Act of 1950 has been, and is still, generated by the Communist Party, U.S.A. CPUSA has waged a concerted campaign against the act from the time of its passage to the present day.

As far back as 1952, a freelance writer named Charles R. Allen, Jr., wrote about title II and in one article, published by the New Statesman, he entitled his critique of detention centers established under the act as "concentration camps in the U.S.A." This was promptly reprinted in Communist journals throughout the world, ultimately appearing in 40 different languages although it received scant notice in the United States.

On June 5, 1961, the U.S. Supreme Court agreed with a Subversive Activities Control Board finding that CPUSA was, in fact, an instrument of world Communist Party headquarters in Moscow and that CPUSA was "a disciplined organization operating * * * under Soviet Union control with the purpose of installing a Soviet-style dictatorship in the United States."

By June 6, Moscow radio was beaming a propaganda barrage against the Court's decision and against the Internal Security Act. On June 11, 1961, CPUSA's general secretary, Gus Hall, issued a blistering statement, leading to an announcement 1 week later that Communists must conduct a "massive educational campaign" against title 2. Statements indicated CPUSA members considered themselves the most likely target of title 2 if any of the three conditions precedent for invoking the act occurred.

Through that summer and into early fall, Communist propaganda organs beat the drums for a late September rally in New York City where a so-called national assembly for democratic rights would be held to coordinate the drive against title 2. The rally was dominated by CPUSA leaders who lost little time in creating a Red "front" to be known as the Citizens Committee for Constitutional Liberties. CCCL was to be directed by Miriam Friedlander. The Attorney General of the United States has identified Miss Friedlander as both an organizer and paid agent of CPUSA and as a member of the party's national committee.

Since that time, CCCL has published an updated version of the Allen article which they called "Concentration Camps U.S.A." and carried on an effective lobbying program to distort the actual provisions of title 2 in order to upset and confuse minority segments of our population with alarmist propaganda.

Many well meaning and sincerely motivated citizens have been persuaded to believe Communist charges without realizing the speciousness of them. As a result, the climate of public opinion is not conducive to any security legislation and the cry for repeal of title 2 is louder than reason. Mark my word, if H.R. 820 is not adopted and if H.R. 234 does pass, the CPUSA will celebrate the greatest single victory achieved by that party in America since its inception.

I shall try to see that reason does—in truth—prevail by voting for the Ichord-Ashbrook-Scherle bill, H.R. 820—as opposed to the Kastenmeier subcommittee legislation, H.R. 234—and I urge my colleagues to do likewise.

Mr. MATSUNAGA. Madam Chairman, will the gentleman yield?

Mr. WILLIAMS. I will be happy to yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Madam Chairman, the gentleman has made a statement that I believe should be corrected.

The most ardent opponents in the Senate, when title II was offered as an amendment to the Internal Security Act of 1950, were Senator KARL MUNDT and Senator Pat McCarran.

Mr. WILLIAMS. I thank the gentleman. I do not believe that anything that I have said would dispute that very fact. I do say that it is my opinion that the principal opposition has come from the sources I have already mentioned.

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

Mr. WILLIAMS. I am happy to yield to the gentleman from Illinois.

Mr. PUCINSKI. The gentleman criticizes provisions of H.R. 234 because it requires an act of Congress before tbe whole detention machinery can go into play.

Is it not true that President Roosevelt after Pearl Harbor was unable to do anything until the following morning when the Congress declared war?

Why does the gentleman fear a requirement that before this huge machinery will come into play that the Congress must first approve it. When we have a declaration of war—and this bill—this bill requires that there must be a declaration of war as one of the three instances in which this bill can become effective.

Mr. WILLIAMS. Does the gentleman want me to answer his question now?

Mr. PUCINSKI. Yes, please do.

Mr. WILLIAMS. I think you are using a very poor analogy. Any time that this country is blatantly attacked as it was on December 7, 1941, I think this Congress is going to respond very quickly with a declaration of war.

On the other hand, we are not going to have the time to work out anything as adequate as the Internal Security Act of 1950 has proven to be.

Mr. PUCINSKI. Your logic totally escapes me.

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

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

Mr. ICHORD. I certainly agree with the gentleman from Pennsylvania. What the gentleman from Illinois would have us do would be to work out libertarian provisions at a time when we are subjected to the emotions and hysteria of war. I would point out to the gentleman from Illinois that back in 1942 there were incidents of Negro people attacking Chinese, thinking they were Japanese. Again I say, Chief Justice Warren—and you are not going to question his libertarian credentials.

Mr. PUCINSKI. Do you want to bet?

Mr. ICHORD. Chief Justice Warren was the one who was hollering the loudest for the picking up of all the Japanese, as well as Walter Lippmann.

But I asked the gentleman from Pennsylvania to yield for the purpose of correcting one statement which has been made on the floor of the House.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WILLIAMS) has expired.

Mr. POFF. Mr. Chairman, I yield 3 additional minutes to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Chairman, I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. The proponents of H.R. 234 talk about this terrible bill which President Truman vetoed, and which the Congress passed over his veto under the emotions and hysteria of the period of the Korean War.

I want to read this. I have the record here from that veto message. Listen to what President Harry Truman had to say:

> It may be that legislation of this type should be on the statute books, but the provisions of H.R. 9540 would very probably prove ineffective to achieve the objectives sought, since they would not suspend the writ of habeas corpus, and under our legal system, to detain a man not charged with a crime would raise serious constitutional questions unless the writ of habeas corpus were suspended.

The objections of Harry S. Truman to the bill went to title I, not to title II. He wanted to go so far as to suspend the writ of habeas corpus.

The gentleman from Illinois talks about the right of jury trial and due process. But here Harry Truman would want to suspend the writ of habeas corpus. We do not do that in H.R. 820. We retain the right of the writ which is a most sacred American right.

Mr. WILLIAMS. I appreciate the gentleman's comment.

I yield to the gentleman from Illinois (Mr. YATES).

Mr. YATES. The gentleman indicated that the principal advocate for the repeal of title II was the Communist Party of the United States. Does the gentleman mean by that statement that the 157 Members who have cosponsored the repeal of title II and the scores of organizations that favor its repeal are dupes of the Communist Party?

Mr. WILLIAMS. No, I do not, and I want to call your attention to the fact that I said the principal opposition to title II of the Internal Security Act of 1950 has come from the Communist Party, and the reason for their opposition is that they believe that title II could be applied to them if we ever entered into a war with Russia and they had a very fine plan to sabotage already set up to be carried out within a matter of 24 to 36 hours.

Mr. YATES. But the fact remains that the organizations, the ethnic organizations in this country are opposed as well to title II and are in favor of its repeal because of what has happened in the past and what may happen again in the future unless title II is repealed. Is that true?

Mr. WILLIAMS. In my remarks I clearly stated that it has been Communist propaganda that has caused this fear on the part of the minority group, alarmist propaganda, and I stay with that statement.

Mr. POFF. Madam Chairman, I yield 3 minutes to the gentleman from Texas (Mr. ECKHARDT).

The CHAIRMAN. The Chair recognizes the gentleman from Texas.

Mr. ECKHARDT. Madam Chairman, I would like to clarify one point that has been discussed in this debate concerning the provision on page 2 beginning at line 13 of H.R. 234. The provision here simply says, as it should say, that—

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

You have got to have an act of Congress to detain, and the act of Congress must authorize detention, as I read that language. I did not understand my friend from Ohio to so read it, but I think that is clearly what my friend from Missouri believes it to mean, and I believe it means what it says. There may be no detention unless detention is authorized by statute.

Let me proceed for a minute to the provisions of the other bill, H.R. 820. What the gentleman from Missouri would do is to provide a kind of process before a board which detains without trial. Title II permits detention without trial. A man is not found guilty of anything, but, under title II, if there is merely a probability that he belongs to a class of persons that might be dangerous, he may be detained.

I submit to you that there is nothing in the provisions of the bill before this House, H.R. 234, that would prevent some subsequent passage of a new title II, revised with Mr. ICHORD's perfections and with his due process attached, if such a situation should become necessary.

Certainly today we should not authorize, under the facts that we have before us, the rounding up and detention of persons merely because they belong to a group which has come under public suspicion.

I am of German ethnic origin. My people have lived in Texas for five generations. But in the First World War there were some doctors who doubted the propriety of my father, a doctor whose grandfather had fought in the battle of San Jacinto and whose father had fought in Hood's brigade, to examine persons for the draft because we bear a German name.

We made a mistake about German Americans then. In the Second World War we had our Eisenhowers and our Kimmels, and the German ethnic group was not suspect, but the Nisei were suspect in exactly the same way that persons of German descent had been in the First World War.

In the next war, who will it be? Perhaps it will be persons of Slavic extraction. Let men be judged by their actions, and let their actions be considered under due process of law. Let no man be incarcerated upon the basis of suspicion and the prejudices of the times.

The CHAIRMAN. The Chair would like to advise Members that the gentleman from Virginia and the gentleman from Wisconsin have 22 minutes remaining each, the gentleman from Missouri has 17 minutes remaining, and the gentleman from Ohio has 10 minutes remaining.

Would the gentleman from Virginia care to yield time?

Mr. POFF. Madam Chairman, I defer, if I may, to the gentleman from Wisconsin.

Mr. KASTENMEIER. Madam Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Madam Chairman and members of the Committee, I believe perhaps the first extraneous fact which ought to be cleared up is that our distinguished colleague from Missouri, in his zeal to take care of the opposition, killed off a constituent of mine. I want to assure all the friends of Paul H. Douglas that he is alive and well. He may be an erstwhile Senator, but he is a very much alive citizen.

I will emulate the chairman of the committee and tell him that I will yield to him later. I will be glad to yield to him on his own time, if he would care to yield time, or I will be glad to yield later.

Let me say that, after all the discussion about the two bills, it seems to me there are really three kinds of situations we are talking about.

If any statute of the Congress now or hereafter authorizes the detention of a person, nothing in the House bill before this committee in any way interferes with that detention—nothing in the House bill that is before this committee interferes with that detention.

If there is any inherent power of the President of the United States, either as the Chief Executive or as Commander in Chief, under the Constitution of the United States, to authorize the detention of any citizen of the United States, nothing in the House bill that is currently before this Committee interferes with that power, because obviously no act of Congress can derogate the constitutional power of a President.

So that leaves, really, a third kind of detention, which is what the Judiciary Committee bill is aimed at, and it is the kind of detention, I might add, I have heard nobody on this floor, including the gentleman from Ohio and the gentleman from Missouri, defend; namely, the kind

of detention to which the Japanese Americans were subjected in 1942.

The so-called Railsback amendment specifically would preclude the President of the United States from causing that kind of detention, from authorizing that kind of detention without an act of Congress.

So really what we are left with are those who feel that the President or somebody else, some unnamed executive member, ought to have the power to detain people without an act of Congress and without there being any inherent emergency power set forth in the Constitution, and I guess they are opposed to the repeal of the Detention Camp Act and want to keep it on the books.

They ought to vote "No" on the House bill. However, if you do not believe in the detention of the Japanese Americans and if you do not believe in some kind of wholesale mass roundup without sanction of law, then you ought to be for the House bill. Certainly you ought not to be for the substitute, the ersatz substitute offered by the Committee on Internal Security of the House, because what that bill says is we are going to allow some detentions so long as they are not on the grounds of race, color, or creed. They can be on any other matter or on any other extraneous basis so long as they are not on the basis of race, color, or creed. So, presumably, if we hark back to 1942 and if the military commander who picked up all of the Japanese Americans also had picked up a few German Americans at the same time, then under the substitute, that would be legal.

It seems to me with all of the discussion about what the cases did say and did not say, the fact of the matter is that the Supreme Court of the United States never did authorize the detention of Japanese Americans in 1942. Fortunately or unfortunately, they very carefully evaded that question as they went into other problems of constitutional law.

But I certainly know of nobody in this Congress who is prepared to say that we ought to allow detention without some sanction either by the Constitution or by statute. If that is so, then you ought to vote for the House bill.

Mr. PUCINSKI. Will the gentleman yield?

Mr. MIKVA. I yield to my colleague.

Mr. PUCINSKI. Is it not true under existing law, if you look at page 9 of the committee report, besides a declaration of war by the Congress, the other two instances in which the President may invoke all of the powers spelled out in the existing act are invasion of the territory of the United States or its possessions, which means that Guam or the Aleutians or some other possessions 9,000 miles away, possessions of the United States, may be invaded and then the President may invoke this law? Furthermore, it says that he may invoke the law in cases of insurrection in the United States by foreign enemies. The burning of five buses in Pontiac, Mich., might conceivably also constitute a case of insurrection. So you are giving the President very broad powers here to invoke all of the machinery of this detention simply because of the provisions. What we say is, if you are going to give the President the right to detain people and arrest them, then let the Congress at least speak out on it. That makes sense to me.

Mr. MIKVA. I may say to my colleague from Illinois that is exactly our position on the Committee on the Judiciary.

If the gentleman from Missouri has the confidence in the Congress that he said he had at the beginning of his remarks, then what is his concern about leaving it to the determination of the Congress to sanction the arrest and detention of citizens of the United States, which is what H.R. 234 calls for?

The CHAIRMAN. The time of the gentleman has expired.

Mr. KASTENMEIER. Madam Chairman, I yield the gentleman 1 additional minute.

Mr. ECKHARDT. Will the gentleman yield to me?

Mr. MIKVA. I yield to my colleague from Texas.

Mr. ECKHARDT. Will the gentleman clarify this point for me? As I read title II, after the President has recognized the emergency described in the bill, it gives authority to the Attorney General to issue an order in which a man is placed in a detention camp without being charged with a crime or convicted of one and then gives the person detained the right to judicial review before a board which may determine whether or not he had a right not to be picked up and detained. It seems to me this does not go to the question as to whether or not he is in fact guilty of a subversive act. It goes to the validity of the order.

Mr. MIKVA. That is exactly correct. The board would have nothing to do as far as the gentleman's guilt or innocence is concerned. They could only ask him whether he wanted to be hanged or drawn and quartered.

Mr. ECKHARDT. Therefore, H.R. 820 only gives the accused person the right to counsel and the right to further try the question of the validity of the order. It does not give him a right to go into the merits of guilt or innocence.

Mr. MIKVA. That is correct.

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

Mr. ICHORD. Madam Chairman, I yield the gentleman 2 additional minutes if the gentleman will yield to me.

The CHAIRMAN. The gentleman from Illinois is recognized for 2 additional minutes.

Mr. MIKVA. I would be happy to yield to the gentleman from Missouri.

Mr. ICHORD. The gentleman from Illinois said nothing insofar as his rhetoric is concerned with which I adamantly disagree.

I disagree with the gentleman from Illinois (Mr. PUCINSKI) when he says that the Congress is retaining no control, particularly in the third condition under which the President can invoke this power.

I want to make it clear that we are not dealing with a present power at all. We are dealing with a future power that is predicated upon the happening of one of three or even four conditions.

First, a declaration of war.

Second, an invasion of the United States.

Third, insurrection within the United States in aid of a foreign enemy.

In H.R. 820, because that is ambiguous, I have retained the power of Congress to authorize the President to have the power. The Congress, of course, would have the power anyway to repeal or amend the act at any time.

But let me ask the gentleman this question: Is the gentleman maintaining that title II is unconstitutional?

Mr. MIKVA. No; I am not. I am maintaining that title II is an unwarranted delegation of unnecessary power to the President of the United States at a time and under circumstances where the decision to do so is unnecessary.

We would prefer to exercise the kind of confidence in the Congress that the gentleman stated he had, and leave it to the Congress to judge under what circumstances an American citizen should be detained.

Mr. ICHORD. I would have more confidence, I would say to the gentleman from Illinois, in the Congress drafting a measure that will protect the liberties of the individual citizens a lot more in a period of peacetime than I would during a period of hysteria and the emotions of war. We should not wait until there is a declaration of war or an invasion of the United States and then legislate under the resulting emotions and hysteria.

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

Mr. ICHORD. Madam Chairman, I yield the gentleman 1 additional minute.

Mr. MIKVA. Let me say to my colleague, if I can paraphrase my distinguished friend, the gentleman from Virginia (Mr. POFF), if there is a law on the books that is unnecessary, it is necessary that it be repealed.

As I read through every page of the hearings of the witnesses that came before the distinguished gentleman from Missouri's committee——

Mr. ICHORD. Did the gentleman read all 1,000 pages?

Mr. MIKVA. All of them. Most of your pages, I might add, were in opposition to the gentleman's position; it became more and more apparent that the best that could be said for title II or your substitute for it, was that it was unnecessary, and that means it is necessary to repeal it.

Mr. ICHORD. Did the gentleman read the statement of Professor Frederick Wiener whom Justice Douglas recognizes as the foremost authority in the Nation on this question; did the gentleman read his statement in its entirety?

Mr. MIKVA. Yes; and I think it is the same Frederick Wiener that some of us recognize in some other context as well.

Mr. ICHORD. I would ask the gentleman from Illinois, is he maintaining that the Department of Justice supports the amendment of the gentleman from Illinois (Mr. RAILSBACK)?

Mr. MIKVA. Notwithstanding the blandishments of the gentleman from Missouri, the Department of Justice has

very carefully refused to oppose it. They requested such an amendment initially because they were opposed to the bill in its original form before the committee because of its overbreadth.

There has been an attempt by some opponents of H.R. 234 to argue that by repealing the Emergency Detention Act, Congress would somehow be cutting back or undercutting the power of the President to act in an emergency.

Repealing title II of the Internal Security Act would do no such thing. This is a patently specious position which should neither serve as a shield for those who favor retention of the Emergency Detention Act for other reasons, nor as an obstacle for those who would otherwise favor repeal of this odious law.

The issue of the extent of the Federal Government's power to undertake extraordinary measures in times of war or of national emergency has been debated vigorously since the early days of the Republic, but the repeal of the Emergency Detention Act will neither add to nor detract from whatever emergency powers exist at present in the Congress or the President.

Let me first dispose of the strawman. It has been argued by some that the constitutional rights of the people of America are better protected by continuing the Emergency Detention Act than by repealing it. The allegation is that by repealing the statute, Congress would leave the President with untrammeled authority to take emergency measures without the restraining guidelines set out in the statute. But a more critical examination of the nature of Congress and the President's respective powers in this area makes it clear that repeal of title II will in no way affect whatever inherent power the Executive may enjoy.

As the war powers issue is framed in court cases arising from the Civil War, the Korean conflict, and two World Wars, there are two basic questions involving war powers and the Constitution. First, what extraordinary powers can the Federal Government claim in a time of national emergency; and second, to the extent that one is willing to grant that some such additional powers are available, who is entitled to exercise which ones—what can the President do on his own authority, and what actions must first be authorized by Congress?

There are three possible positions one can take, and I am sure that all three are represented to some extent in this chamber today. The point I wish to emphasize is that none of these three positions on the war powers issue requires or even justifies voting against repeal of the Emergency Detention Act.

The first position would be that of those who maintain that the Federal Government has no additional powers in times of war or insurrection, except as specifically provided in the Constitution, or as necessary in order to uphold the Constitution. The clearest example is found in Article I, Section 9 of the Constitution, wherein Congress is prohibited from suspending the privilege of the writ of habeas corpus, "unless when in cases of rebellion or invasion the public safety may require it." The strongest judicial exposition of this view of the war powers of Congress and the President in the case of *Ex parte Milligan*, decided in 1866. Milligan was tried during the Civil War by a military tribunal, and was sentenced to death after being convicted of conspiring to release and arm some rebel prisoners in Indiana. The Supreme Court ruled the trial and the conviction unconstitutional. Neither in war nor in peace, said the Court, does either Congress or the President have the right to discard the Constitution. In a much quoted opinion, Justice Davis wrote:

> The Constitution of the United States is a law for rulers and people, equally in war and in peace . . . No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government . . . The theory of necessity on which (such a doctrine) is based is false; for the government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence.

The Court went on to say that martial law cannot be justified so long as the civil courts are open and functioning. In other words, if Milligan committed an offense against the Government, he must be tried in a civilian court in accordance with the Constitution, unless the normal order had broken down to the point where the civil administration was no longer functioning.

Those who adhere closely to the position I have just described would probably argue that the Emergency Detention Act is unconstitutional. They would not be concerned about whether repeal of title II frees or constricts the so-called inherent powers of the Executive, for they would probably deny that the Constitution provides any such inherent powers. Whether Congress presumed to speak on the subject or not would be irrelevant to them.

The next group of opinion would hold that the Federal Government does have certain emergency powers which can be exercised if necessary for self-preservation. Some in this group would give extensive latitude to the President to exercise such war powers, finding the justification in his position as Commander in Chief of the Armed Forces, as well as in his sworn duty to uphold the Constitution and to preserve the Republic. Once again, it is difficult to see how proponents of this view could consistently oppose H.R. 234 on the grounds that it would undercut the President's ability to act in an emergency. After all, if the President's war powers are inherent, he must have the right to exercise them without regard to congressional action. Arguably, any statute which impeded his ability to preserve and protect the Republic from imminent harm could be suspended from operation. It is a contradiction in terms to talk of Congress limiting or undercutting an inherent power given by the Constitution or some higher authority.

The last group consists of those who agree that the Federal Government does have certain extraordinary powers in an emergency, but who feel that the Constitution gives Congress the responsibility for authorizing such actions. To the proponents of this view, the President has no inherent powers—only those powers granted to him by the Constitution. With respect to war powers, they would see the President's powers as restricted to his role as Commander in Chief. The Supreme Court has firmly rejected the argument that the role of Commander in Chief alone invests the President with extensive prerogatives to do whatever he feels is necessary in time of war, specifically in the Youngstown against Sawyer case which overturned President Truman's seizure of the steel mills during the Korean conflict. For those of this persuasion, the argument about the residual powers of the President after repeal of title II is moot. By repealing the statute, Congress would terminate the President's ability to incarcerate people whenever he determines that an emergency exists. It would be Congress responsibility to restore that power to the President if necessary, along with whatever other emergency powers he might require, in the event that Congress found a state of emergency to exist. It is difficult to envision a situation in which the President would need this particular kind of authority on an emergency basis without even the 24 hours notice which would be necessary for Congress to act.

The conclusion to be drawn from all of this is that, historical and philosophical questions aside, the repeal of the Emergency Detention Act which is proposed in H.R. 234 would have no measurable effect on the war powers of the President, whatever those powers are deemed to be at present.

Before yielding the floor, I would like to make brief mention of one line of argument and case law which has received much misunderstanding. It has been suggested by some that repeal of title II of the Internal Security Act would leave us back where we were in the 1940's when President Roosevelt authorized by Executive order severe restrictions on the freedom of Americans of Japanese origin. It is not true that the constitutionality of those detention camps was ever upheld. In the Hirabayashi case, the Court merely held that the curfew order which required Japanese Americans to remain in their homes after dark was not unconstitutional. In the Korematsu case the Court dealt only with the Executive order which excluded Japanese Americans from certain areas of possible military operation. In both these cases the Court studiously avoided reaching the issue of the constitutionality of the order which authorized the mass round up and detention of thousands of Americans whose only crime was the unpopularity of their national origin. Both decisions were clearly influenced by two important factors. First, the traditional reluctance of the Court to interfere with an ongoing war effort; and second, the critical fact that at the time of those decisions the 14th amendment guarantee of equal protection of the laws did not apply to the Federal Government—only to the States. It was not until more recently that the equal protection standard has been extended to the Federal Government

through the due process clause of the fifth amendment.

What is crystal clear is that the Emergency Detention Act must be repealed. It stands as a blot on our history as a free Nation. Its mere continued presence on the statute books is an affront to Japanese Americans, and lends credence to rumors and fears that such gestapo tactics might be employed again in the future, perhaps directed this time at black political activists. By every principle on which this Nation was founded, this repugnant law must not be allowed to stand.

The CHAIRMAN. The time of the gentlemen from Illinois has again expired.

Mr. ADAMS. Madam Chairman, will the gentleman yield?

Mr. MIKVA. I am glad to yield to my colleague from Washington.

Mr. ADAMS. Madam Chairman, I rise in support of H.R. 234 as a cosponsor of a companion bill. This legislation would remove the evil provisions of the Emergency Detention Act which is title II of the Internal Security Act of 1950—50 U.S.C. 811–826. It would then amend section 4001 of title 18 of the United States Code to prohibit the establishment of emergency detention camps, and would provide that no citizen of the United States would be detained or imprisoned in any Federal facility except a penal or correctional institution which is established pursuant to the general provisions of the criminal code contained in title 18. It would thus preclude the administrative establishment of concentration camps and abolish penalties connected with such detention found in title 5.

The present Emergency Detention Act which would be abolished has always raised serious constitutional questions. This act presently gives the President or his agent, during a declared "internal security emergency," the power to apprehend and detain, without trial, persons "if there is a reasonable ground to believe that such a person will engage in or probably will with others engage in acts of espionage or sabotage." Thus detention of a person is authorized on the basis of mere suspicion that he might commit a crime. This is not part of the American system of justice but instead resembles the powers often misused by autocratic regimes.

In addition, the title II detention camp legislation raises ominous implications for racial and ethnic communities which was demonstrated during the detention of west coast Japanese during World War II. Over 100,000 Americans of Japanese descent were placed in camps by a determination of the Government without the due process protections of the Constitution. Many of these citizens later served our Nation in the armed services in World War II. This should be enough to tell us that administrative detention camps should be repealed. I remember those injustices well because I was in high school at the time and one-third of my high school class was sent to detention camps.

There is the fear that history may repeat itself unless the law is repealed. Many of our citizens who fear that this law may be directed at them find little comfort in the fact that the provisions of the act have never been applied and that there is nothing specifically directed towards persons of a particular race or creed. The vague wording of the law and the thrust of the concept combined with the history of the 1940's is certainly enough to raise suspicion and fear. This is unnecessary and should be changed.

Beyond the fear perpetuated by this act, I question the advisability of investing such power in the office of the President. If a real threat to our internal security should arise, it should be passed on first by the legislative branch and then administered by the executive branch.

There is a great deal of support among concerned Americans for repeal of this act. I have in my files letters from more than 20 organizations from the congressional district which I represent, and I have also received resolutions from the Seattle City Council and the King County Council both urging repeal. In addition, the Asian Coalition for Equality has forwarded to me petitions containing more than 7,000 signatures in support of repealing title II.

The dangers to our democracy from a law which provides for the setting up of concentration camps and internment of citizens without the right to trial are real and we should not leave such machinery in existence. I believe that such a law has no place in our country and I urge the immediate repeal of the law authorizing these concentration camps.

Madam Chairman, I ask unanimous consent to revise and extend my remarks immediately following the remarks of the gentleman in the well.

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

Mr. ICHORD. Madam Chairman, reserving the right to object—and I shall not object—I want to make it clear that the gentleman does not have newspaper editorials or radio editorials and he does not include extraneous matter in the unanimous-consent request.

Mr. ADAMS. Absolutely not. It is just the remarks, as I made before the gentleman when I testified on my own.

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

There was no objection.

Mr. YATES. Madam Chairman, earlier in the debate when I asked the gentleman from Illinois (Mr. RAILSBACK) to yield, I was unable to complete the point I had begun to make. That point was based upon the oppressive policies of the existing law. The evil of title II relates to the possibility of mass arrests based only on suspicion, condemning a whole ethnic group for no reason of violation of law but solely because of membership in the group in the same way that Americans of Japanese ancestry were condemned and detained in detention camps during World War II.

History has a way of repeating itself—even sordid chapters like the detention of the Japanese Americans. We are appalled now by the attitude revealed by General DeWitt in his testimony before the Committee on Armed Services of the House in 1943 when in response to the question asked by Congressman Bates, the following interchange took place:

Mr. Bates asked: I was going to ask—would you base your determined stand on experience as a result of sabotage or racial history or what is it?

General DEWITT. I first of all base it on my responsibility. I have the mission of defending this coast and securing vital installations. The danger of the Japanese was, and is now—if they are permitted to come back—espionage and sabotage. It makes no difference whether he is an American citizen, he is still a Japanese. American citizenship does not necessarily determine loyalty.

Mr. BATES. You draw a distinction then between Japanese and Italians and Germans? We have a great number of Italians and Germans and we think they are fine citizens. There may be exceptions.

General DEWITT. You needn't worry about the Italians at all except in certain cases. Also, the same for the Germans except in individual cases. But we must worry about the Japanese all the time until he is wiped off the map. Sabotage and espionage will make problems as long as he is allowed in this area—problems which I don't want to have to worry about it.

The Emergency Detention Act was bad law when it was first passed by the Congress, it is worse law today.

Other sections of the Internal Security Act have long since been stricken from our laws as unconstitutional. Only title II remains to remind us of the hysteria and unreason of the early postwar era. Eminent legal authorities believe that title II would meet the same fate were it ever challenged.

It is unfortunately true, however, that a legal challenge of the act is unlikely in the foreseeable future. The question of the justiciability of the statute remains unclear so long as it is not enforced. Since the conditions for invoking title II are not in prospect, the "threat of enforcement" of the law may not be sufficient to sustain a constitutional challenge.

The act is most likely to be challenged in the courts only when the threat of enforcement is substantially more pressing than is presently the case—in other words, during a crisis. The courts, despite all the buffers which have been erected to shield them from political pressure and transitory change in public sentiment, are nonetheless subject to the strong popular currents which are loosed in a wartime situation or during periods of civil unrest.

In the Japanese-American concentration camp cases, the Hirabayashi case and the Korematsu case, the Supreme Court, acting during wartime, upheld as constitutional acts of the Government which are now widely recognized as unjustified and excessive. It is likely that any judicial challenge of the Emergency Detention Act would take place under the similarly stressful conditions which would make extremely difficult an objective decision on the constitutional merits of the case. For that reason it is especially appropriate that the Congress move now, during a period of relative safety

from external threats, to remove title II from the law of the land.

Conservative assumptions about the threat of sabotage or espionage inevitably take over during a wartime situation. In such a case, it is possible that title II would be enforced in indiscriminate manner which characterized the Japanese-American incarceration during World War II, and that must not be allowed to happen again. The freedom and reputation of innocent, law-abiding citizens must not be allowed to be compromised. Unfortunately, we have never had a shortage in this country of people who would be willing to sacrifice our freedoms in the name of security. Title II, combined with fear and a little demagoguery, would be a potent mixture indeed—a mixture that could cause irreparable harm to our democratic traditions.

It is between fear and freedom that we choose today. Let us put an end to the threat to our traditions which is posed by title II. And let us do it quickly and cleanly by outright repeal of the Emergency Detention Act.

Mr. ASHBROOK. Madam Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. ZION).

Mr. SCHMITZ. Madam Chairman, will the gentleman yield?

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

Mr. SCHMITZ. Madam Chairman, I rise to support the Ichord amendment to H.R. 234 which will be brought before the House tomorrow for a vote. It is absolutely necessary that title II of the Internal Security Act of 1950 be retained on the statute books. The Ichord amendment will retain the statute in a form which should help to alleviate false fears which have been organized in opposition to this act.

Briefly, the Ichord amendment simply says that no citizen of the United States shall be apprehended or detained for the prevention of espionage or sabotage solely on account of race, color, or ancestry. This modification of title II is necessary because of the unnecessary apprehension about the existence of this act which has arisen among certain segments of our population, particularly Japanese Americans. As has been mentioned previously in the discussion, title II was not even in existence during World War II when the indiscriminate detention of many Japanese citizens of our Nation took place. Repealing it, therefore, can hardly prevent a reoccurrence of such an unhappy event.

In fact, by repealing title II we will eliminate detention procedures now on the books which would help to prevent this type of indiscriminate mass incarceration. It is unfortunate that the situation has been completely turned around and title II is seen by some to be an "ominous foreshadowing of fascist repression." If this section of the Internal Security Act of 1950 is an "ominous foreshadowing of fascist repression" it is the slowest moving shadow in history.

Title II was enacted to deal with Communist insurrection in support of the foreign powers to which they owe allegiance. Section 811 of the act begins with the congressional findings which make the act necessary, and contain 15 subsections. Subsection (1) reads:

> There exists a world Communist movement which in its origins, its development and its present practice, is a world-wide revolutionary movement whose purpose it is, by treachery, deceit, infiltration into other groups (governmental and otherwise), espionage, sabotage, terrorism, and any other means deemed necessary, to establish a Communist totalitarian dictatorship in all countries of the world, through the medium of a world-wide Communist organization.

There have been no congressional findings of fact since 1950 to refute this assessment. History since 1950 has confirmed it. I bring this point up simply to show that the act was in no way aimed at Japanese Americans or any other minority group in our Nation. The United States was not even officially found to be a racist society until the Kerner Commission came upon the scene in the late 1960's.

Not only was the Congress in 1950 concerned with the protection of our society from those who have sold their birthright for a mess of dialectical pottage, but they were also well aware of the need for safeguarding individual rights. Subsection (15) of section 811 states that—

> It is also essential that such detention in an emergency involving the internal security of the Nation shall be so authorized, executed, restricted, and reviewed as to prevent any interference with the constitutional right and privileges of any persons, and at the same time shall be sufficiently effective to permit the performance by the Congress and the President of their constitutional duties to provide for the common defense, to wage war, and to preserve, protect and defend the Constitution, the Government and the people of the United States.

Recognizing the existence of the enemy and the need to maintain individual freedom the Congress saw fit to pass title II. I think they did a good job in putting together this act. The declaration of "internal security emergency" under which the detention procedures go into effect was specifically spelled out to include only the following: First, invasion of the territory of the United States or its possessions; second, declaration of war by Congress; and, third, insurrection within the United States in aid of a foreign enemy. So it is not just a question of the Executive declaring a national emergency and proceeding to ship various people off to the detention camps but a case where specific types of emergency situations bring into effect the legislation necessary to cope with the emergency.

For example when President Nixon recently put into effect the across-the-board 10-percent tariff on foreign goods he stated in Presidential proclamation 4074 that—

> I hereby declare a national emergency during which I call upon the public and private sector to make the efforts necessary to strengthen the international economic position of the United States.

This declaration of national emergency does not carry with it the power for the President to go out and round up the "international money speculators" or whoever else he would like to blame for our international balance of credits problem.

There are only certain times when title II comes into effect and these are times when I think everyone would agree it might be necessary for our survival to detain certain individuals. Those who think that some form of increased internal security precautions will not be taken in any one of the three above mentioned situations, invasion, war, or insurrection in aid of a foreign enemy, are living in a dream world. The important thing, and this is what title II does, is to have established guidelines for maintaining internal security already on the books so that crisis does not provoke extreme, intemperate, and unnecessarily harsh measures against loyal citizens.

Testifying before the House Committee on Internal Security on the advisability of retaining title II, Dr. Walter Darnell Jacobs, professor of government and politics at the University of Maryland, pretty much summed up my views on this entire matter.

"Hopes—and prayers—that actual use of title II will never be necessary should not blind the Congress to its potential value in controlling threat to internal security.

"Today, the Soviet Union is dedicated to a revolutionary program which is supposed to culminate in "victory for socialism" and in the "elimination of capitalism and imperialism" everywhere in the world. Attempts by persons in the West to ignore or rationalize away this reality will not change the nature of existential Soviet approaches to the world. A better part of wisdom would be to recognize the content of the Soviet world view and of Soviet plans for "anti-imperialist" alliances inside the United States of America and to provide ourselves with tools and devices for our own protection, if they are needed."

I hope that my colleagues will consider this matter on the basis of facts rather than emotions and vote with me tomorrow in favor of the Ichord amendment to H.R. 234.

Mr. ZION. Madam Chairman, in times of crisis, the fabric of democracy undergoes its most severe strain. It is easy to be philosophical about civil liberties in the abstract. But the tests come when danger is imminent, when strong emotions are aroused.

The best way to assure the protection of constitutional rights in a period of turmoil is to establish procedures for due process during a period of calm before the storm rages.

This is precisely the purpose of H.R. 820, a bill to amend the Emergency Detention and Internal Security Acts of 1950.

The original act of 1950, also known as title II of the Internal Security Act, was designed to protect the Nation in time of danger and at the same time to preclude the use of martial law and other Executive powers under which the lamentable incarceration of innocent Japanese-American citizens was conducted during World War II. By an overwhelming vote, Congress acted in 1950 to prevent the recurrence of this abrogation of constitutionally guaranteed liberties, realizing

that preparation for an emergency is the surest way to prevent hasty action, born of hysteria and panic.

The purpose of H.R. 820 is to spell out additional constitutional safeguards: To assure that no citizen shall be apprehended or detained because of his race, color, or ancestry; to make certain that any person detained by the act is provided with counsel and such other experts as are necessary for his defense; and to insure that, in case of insurrection, the President cannot invoke the act unless Congress affirms by concurrent resolution that an insurrection does, in fact, exist within the United States.

Much of the opposition to H.R. 820 is based upon misinformation, disseminated in large part by the Communist Party, U.S.A. A recent example appeared in the People's World for August 28. This west coast Communist newspaper urges its readers to visit, write, and telegraph their Congressmen to repeal title II. The publication also falsely represents H.R. 820 as a bill which "goes beyond the McCarran Act to broaden the base of those liable to be interned by including 'movement' people."

This is just one example. Throughout the Nation the party press, front organizations, and spokesmen are busy trying to whip up opposition to this proposed legislation.

Naturally, the Communists want to promote confusion on this vital issue. From the earliest days of the party up to the present moment, the Communists have fought any form of internal security, and confusion is their best weapon. They know, as we also must know, that if the issue is presented clearly and honestly to the American people, the choice will be to protect this country from its enemies within, including espionage agents and saboteurs. Due process is vital—that is why I support H.R. 820—but so is survival. And when times of severe crisis come, the American people will not sit still to see their country torn apart "by due process." They will applaud whatever means necessary to preserve the Nation, as they did the incarceration of the Japanese Americans during World War II.

The irony is that instead of being the "concentration camp" bill charged by the Communists, H.R. 820 is the kind of legislation that would have helped prevent the tragic persecution of loyal Japanese citizens during World War II.

As the attorney general of New Jersey, George F. Kugler, Jr.—Republican—put it so well:

> The problem which existed in the Japanese Exclusion cases was that no procedural protection existed when such executive authority was implemented by the President.

What title II and H.R. 820 provide is a viable and sensible alternative to suspending the writ of habeas corpus and to imposing martial law when crises arise. Civil librarians, including Japanese Americans and other minorities, should support H.R. 820. They should not be misled by the absolutely and patently false claims that the enforced detentions of the 1940's were caused by the Internal Security Act of 1900. They should be eager for the safeguards embodied in H.R. 820.

Madam Chairman, we must see this issue in concrete and very human terms because it can be a matter of life and death for millions of our citizens. In very realistic terms we must weigh the costs and the consequences.

Detention is not pleasant but it is not a horrible fate. The use of the words "concentration camp" is an obvious cheap Communist propaganda trick to arouse the emotions we all have regarding Dachau, and so forth. Nothing like that is contemplated.

I hope no innocent person is ever detained. H.R. 820 is designed to prevent that. But if it happens, in a time of national emergency, that will be one of its costs. And it will be a small cost in comparison with the suffering and death of our citizens due to the planned destruction of our vital services.

The organized opposition to H.R. 820 is not an isolated phenomenon. It is part of a general attack on all the safeguards needed to preserve this country. Name any agency, person, or organization dedicated to maintaining the integrity of the United States—the police, the FBI, the prison authorities, the military—the "Establishment," the Congress—yes, even the House Committee on Internal Security—and you have named a target for those who want to tear this country apart.

We who love a free America must put its survival first.

Mr. POFF. Madam Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. HUNT).

Mr. HUNT. Madam Chairman, this day I have heard obviously learned men spout believably learned reasons relating to the repeal of amendment of the Emergency Detention Act of 1950.

Some have argued H.R. 234 would repeal the Emergency Detention Act, and in doing so deprive the President of emergency powers to cope with sabotage and espionage in war-related crises.

Some say quite succinctly—and I would say, quite accurately—such deprivation would render the country helpless.

To this I must speak: let us not forget our Constitution does not guarantee its own destruction. It was ever intended that our Government should prepare and provide for our national defense. Every significant case in our Nation's history has held it so. For example, can one doubt the wisdom of McCulloch against Maryland which says in unequivocal language that our Constitution was "intended to endure for ages to come and consequently to be adapted to the various crises of human affairs."

We must remember the Emergency Detention Act was designed to protect the Nation in time of peril from potential activity of individuals as to whom there was then probable cause to believe dangerous. It does just that. Should our country be denied the right to self-defense? It is preposterous to think so.

H.R. 820 will maintain this protection because the Emergency Detention Act should be retained. At the same time H.R. 820 maintains and promotes the public welfare, it provides protection for individual civil rights.

As Frederick Bernays Weiner, one of our foremost military law authorities, said in testimony before the House Committee on Internal Security during extensive hearings on title II, repeal of the Emergency Detention Act would be against and injurious to the national interest. In this I wholeheartedly concur.

He said, further, that minor objections to the bill could be removed by amendments. Again, I agree, for I am convinced H.R. 820 removes those objections yet retains title II which is so necessary for this Nation's good should we be faced with declared war, invasion, or insurrection in aid of a foreign enemy. H.R. 820 is a simple measure and a restricted measure, incisive, and to the point. It is limited in its application to identified saboteurs and espionage agents trained as hard-core revolutionaries. And this is as it should be. It is an excellent bill and I urge its adoption.

Mr. ICHORD. Madam Chairman, will the gentleman yield?

Mr. HUNT. I yield to the gentleman.

Mr. LLOYD. Madam Chairman, will the gentleman yield?

Mr. HUNT. I yield to the gentleman.

Mr. LLOYD. Madam Chairman, tomorrow the House of Representatives will vote on H.R. 234, a bill to repeal the Emergency Detention Act of 1950 and to prohibit the establishment of detention camps in the United States.

As one of the original cosponsors of this legislation in the 91st Congress, I give it my unqualified support.

The Emergency Detention Act authorized the Federal Government to set up these detention camps to hold individuals on the probability that they would engage in espionage or sabotage during a proclaimed security emergency. Six detention camps were set up after passage of the act and maintained by the Department of Justice from 1952 until 1958, when Congress halted appropriations for them. At that time, the camps were either abandoned or converted to other uses, and they were never used for detention purposes.

This law which remains on our books is repugnant to many of the basic constitutional guarantees and judicial traditions of our free society. Defendants incarcerated under this law receive no trial by judge and jury, and are assumed to be guilty. The Government is not even required to inform the defendant of the charges against him. All that is required is an appearance before a preliminary hearing officer appointed by the Attorney General. The accused need not be confronted by the facts which led to his detention, for under the law, the Government is not required to produce any evidence of wrongdoing.

We remember with a sense of national dismay the tragic experience of Japanese Americans living on the west coast during World War II. At that time, about 110,000 persons, over two-thirds of them native-born American citizens, were rounded up and placed in the only concentration camps ever maintained in America.

One of the largest of these camps, the Topaz Relocation Center, was located in my own congressional district in Millard County, Utah. Topaz was set up for a capacity of 10,000, and at its peak popu-

lation in January 1943 contained 8,232 Japanese-American prisoners.

Mr. Bill Hosakawa, author of the book "Nisei," reports that the initial plan was to have 50 to 75 small relocation camps throughout the West, but at a meeting in Salt Lake City, the western Governors refused to cooperate, and the Federal directors of the relocation decided that large camps would be necessary.

At Topaz, families were given one-room in barracks-type buildings, with no furniture except for sleeping cots and a stove. Mess halls were set up to feed 300 people each, and sanitary facilities were separate and distant from the living quarters.

Mr. Hosakawa relates that someone with a sense of humor called Topaz "the Jewel of the Desert." One of the prisoners, a woman, described her first sight of the camp after being transferred from a train to buses:

> Suddenly, the Central Utah Relocation Project was stretched out before us in a cloud of dust. It was a desolate scene. Hundreds of low black barracks covered with tarred paper were lined up row after row. A few telephone poles stood like sentinels, and soldiers could be seen patrolling the grounds. The bus struggled through the soft alkaline dirt . . . when we finally battled our way into the safety of the building we looked as if we had fallen into a flour barrel.

The camps were watched by armed soldiers who regulated movements in and out of the camp by the prisoners. At night, floodlights illuminated the barbed wire fences. The soldiers meant business, as they demonstrated by shooting an elderly Japanese who wandered too close to the fence, Mr. Hosakawa states.

As it turned out, the Japanese were enormously helpful in the agricultural areas around the camps, which were suffering from a labor shortage due to the war, and eventually, one-half of the adult male labor pool was engaged in work outside the camps. Some Japanese farmers stayed in Utah after the war.

The Japanese also organized themselves politically within the camps for the purposes of self-government, maintenance, care, and feeding of the inmates, and so forth. The Japanese-American Citizens League was formed and moved to Salt Lake City during the concentration period. Some of its officers, including the present and past directors, are from Salt Lake City.

Madam Chairman, although the Emergency Detention Act was not used as a basis for the World War II experience, the detention of the Japanese has become associated in many minds as an example of the suspension of constitutional rights and individual freedoms made possible by the present law. Some argue that the law should be amended and remain on the books as a protection against insurrectionists in the event of real emergency. However, I believe there are other laws sufficient to safeguard American security. It is not enough for the Government to say that it has no intention of enforcing this emergency detention law. The fact is that it remains, and that it represents a threat to the individual rights so important to our free society. I, therefore, encourage the House of Representatives to act swiftly to abolish it.

Mr. ICHORD. I want to ask the gentleman one question, because I do know that the gentleman has had considerable police experience. I had asked the distinguished gentleman from Illinois (Mr. RAILSBACK) a question about what he was going to do under his legislation with a trained espionage agent and a trained saboteur, and he never did get to answer the question, but he did state something about putting an FBI agent on his tail and start following him around. Do you think that that would be done in a period of an invasion of the United States, that we would follow such a person around all the time waiting until he blows up a defense plant or commits some other act of sabotage before he was apprehended?

Mr. HUNT. In answer to the gentleman's question, it would be ridiculous even to assume that we could place someone as a surveillance on a known saboteur. I wonder how long other nations would wait to handle our espionage agents if we had them in their country? I think we should treat the enemy accordingly. The enemy to our Nation is an enemy to the Nation, and I do not care how you slice it, you cannot make it any thinner.

Mr. ICHORD. I agree with the gentleman in the well wholeheartedly. I think that one great Chief Justice in the past answered this problem very clearly and very succinctly. He said that doctrinaire logic must always be tempered with practical wisdom. I do not think the position of the gentleman from Illinois (Mr. RAILBACK) contains any practical wisdom.

Mr. HUNT. I have been associated with this type of work for a number of years, and I can assure you of one thing, that there is only one way to handle a hard-core saboteur or revolutionary in my opinion, and that is to incarcerate him and to incarcerate him immediately in a place where he shall stay incarcerated until he has either been tried or the war has come to a conclusion.

Mr. ICHORD. And the gentleman would make it clear that we are dealing with an emergency situation, a war situation; we are not dealing with a peacetime situation.

Mr. HUNT. The only thing we are dealing with today is a wartime situation, because when we start talking about getting rid of detention camps, how can you get rid of something you do not have?

(Mr. BLACKBURN (at the request of Mr. POFF) was granted permission to extend his remarks at this point in the RECORD.)

Mr. BLACKBURN. Madam Chairman, today, midst the controversy surrounding the Emergency Detention Act, title II of the Internal Security Act of 1950, I hear wild statements that almost any group of American citizens, blacks, chicanos, Japanese Americans, at the whim of "the establishment," "the man," can be swept into detention centers under the provisions of title II, and that the purpose of H.R. 820 is to reinforce that possibility.

That patently is untrue.

Misinformation regarding the terms and possible application of the act has received wide dissemination. This misinformation has been accepted by a small minority as factual and consequently has become a matter of concern.

Black Americans fear that participation in riots and disturbances might be construed as "insurrection within the United States in aid of a foreign enemy"—hence they fear the very existence of the act like a Black Maria.

Nothing could be further from the truth. Indeed, I see H.R. 820 as the friend of every American citizen.

First, under the bill, any operation of the act initiation or termination—rests with both the President and Congress.

Second, the bill would make explicit that no citizen of the United States can be apprehended or detained on account of race, color, or ancestry.

Third, the amendment assures any person detained full opportunity for counsel and adequate assistance for representation in all stages of proceedings.

Every Tom, Dick, and Harry is not subject to apprehension or detention under the act. The language specifically restricts and clarifies the criteria so they can be applied only on an individual basis and only to those persons who have received or given assignment, or training or instruction in procedures and techniques, for the commission of espionage or sabotage.

Even this is limited in that such assignment, training, or instruction shall have been under the supervision and in service or preparation for service with, or on behalf of, a foreign government, foreign political party, organization, or movement.

And this, too, is narrowed—that unit must be either Communist or have as its purpose the overthrow or destruction by force or violence of the Government of the United States or its political subdivisions.

One can only conclude that H.R. 820 is the friend of every American, a bulwark for the protection of the Constitution, and necessary for the well-being of this country.

The passage of H.R. 820, it seems to me, is the only route logical men can take to protect both public and individual liberty in times of crises.

Mr. POFF. Madam Chairman, I yield 5 minutes to the distinguished gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Madam Chairman, I thank the gentleman from Virginia (Mr. POFF) for yielding to me.

Madam Chairman, I rise in support of H.R. 234 now before this Committee.

Madam Chairman, I served as a member of the House Internal Security Committee. It was during the course of my service as a member of that committee that the Ichord bill was passed out of that committee. I had the benefit of hearing all of the witnesses and the testimony regarding title II of the Emergency Detention Act of 1950. I also participated in extensive debate during that time with the distinguished chairman of that committee, the gentleman from Missouri (Mr. ICHORD). I rise today in support of H.R. 234 which is now pending before this Committee.

Madam Chairman, I think that it is necessary for us to immediately get to the core and essence of the grievousness of title II. The fact is that in our Nation, by virtue of the Constitution of the

United States, we have a history of not depriving people of their liberty before they have committed a crime. The real evil of title II is that it has the effect of detaining citizens of this country of their liberty based solely upon the suspicion of their Government. This, to me, seems to violate everything that this country stands for.

I think only brief reference has to be made to two of the changes which would come about as a result of passing the House internal security bill. First, would be the provision which takes the power to invoke the provisions of the Act away from the President and gives it to Congress. This particular provision would, of course, have the dual advantage of diminishing the possibility of arbitrary action and also that of making public the deliberations surrounding invoking the act. The second change would afford any indigent person detained under this act the benefit of appointed counsel. In my opinion, this is a right which is probably already available under the Constitution. However, this provision would have the beneficial aspect of eliminating the necessity of litigating this constitutional issue while indigent detainees go without representation.

However, Madam Chairman, as I said in my minority view which was filed with the House report of the same bill in the 91st Congress, these mild modifications form but two blades of grass in a weed patch of constitutional and other problems. I base this opinion upon the eloquent and articulate testimony before that committee of ex-Supreme Court Justice Arthur Goldberg. In his testimony he said to us:

> There is barely a sentence contained in the statute which can pass constitutional muster.

The fact is that the gruesome procedures of the act can still be triggered by the President upon declaration of war or "foreign invasion," regardless of the actual degree of threat to the United States. If Congress declared war on North Vietnam tomorrow afternoon, the President could begin detention before nightfall, despite the unanimously accepted fact that our Vietnamese enemies constitute absolutely no direct menace to our shores. Similarly, detention could begin after an "invasion" by a minuscule foreign force of our most farflung possession even though this overreaching maneuver posed no threat whatsoever to our national security.

The eminent danger as I see it is that this act permits the Attorney General to apprehend each person whom he "has reasonable ground to believe will probably" either engage in or conspire to engage in an act of espionage or sabotage. It is not customary under our legal heritage to detain private citizens because some public official, whatever his rank, believes that that person may some day in the future commit a crime.

Now title II of the act does attempt to offer some standards to guide the Attorney General's actions, but it is obvious that some of the criteria set forth therein is clearly unconstitutional.

For instance, section 109(h)3 indicates membership in certain organizations can be grounds for detention. There have been Supreme Court decisions which have made it patently clear that membership in any organization is an insufficient reason to subject a person to criminal liability. This was set forth in both *Scales* v. *U.S.*, 367 U.S. 203 (1961) and *United States* v. *Robel*, 389 U.S. 258 (1967). In his testimony with reference to this section of the act, Ambassador Goldberg stated to our committee:

> Bad laws have sometimes been enacted in the nearly 200 years we have been a Nation, but for insensitivity to our legal tradition and for potential for abuse, this aspect of the 1950 act is truly extraordinary.

One of the most serious constitutional problems of this act is the clear violation of the fourth amendment to the Constitution of the United States. Under this act the warrant authorizing the pickup of a person to be detained is not issued by any court or magistrate who would be subject to judicial control, but the act permits the issuance of a warrant by "such duly authorized officers of the Department of Justice as the Attorney General may designate." In other words, Madam Chairman, the warrant proceeds from the prosecutor which is clearly an unconstitutional concept and is foreign to our judicial process. This section has been made unconstiutional by virtue of *Johnson* v. *U.S.*, 333 U.S. 10 (1948).

Now after we get the detainee in custody, it is clear that he is still not given his constitutional right to a prompt arraignment. Instead, he is guaranteed only a hearing within 48 hours after apprehension, or as soon thereafter as provision for it may be made. Additionally, the hearing is not before a judicial officer but is before what they call a "preliminary hearing officer who has also been appointed by the prosecution.

Now if this hearing officer sustains the detention, the arrested person's only appeal is to a Detention Review Board appointed by the President, where he is offered a second hearing no sooner than 15 nor later than 45 days after his notice. Thus, the petitioner could now have been held at least 47 days on nothing more than the Attorney General's suspicion, his own officers warrant, and his appointed hearing officer's decision.

The detainee's hopeless position is further compounded by the elimination of his sixth amendment rights of a jury trial, cross-examination, and the opportunity to confront his accusers. There is no right to a jury trial at either the preliminary or review board level. And at both the preliminary and review levels the Attorney General may refuse to furnish evidence or produce witnesses which in his—not a court's—opinion would be dangerous to security.

Madam Chairman, I could go on and on because title II is, in my opinion, fraught with many troublesome constitutional problems. But over and above its constitutional problems is the fact that the Justice Department of our Nation has recommended repeal of this act. While I was a member of this committee, Mr. Richard D. Kleindienst, Deputy Attorney General, advised us that the repeal of this legislation will allay the fears and suspicions—unfounded as they may be—of many of our citizens. This benefit outweighs any potential advantage which the act may provide in a time of internal security emergency.

I heartily endorse the position of the Department of Justice and urge my colleagues to support H.R. 234.

Mr. ICHORD. Madam Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Madam Chairman, I thank the gentleman. I hope my comments shall not take the entire 5 minutes.

The name of former President Truman has been raised in this debate, in connection with his veto message before the vote to override his veto. I have before me here that message, dated September 22, 1950. As I read his veto message, he was not vetoing the Internal Security Act of 1950 because of title II but as a matter of fact because of title I.

I read from page 15630 of the RECORD for September 1950. President Truman said:

> But the provisions of H.R. 9540 would very probably prove ineffective to achieve the objectives sought, since they would not suspend the writ of habeas corpus, and under our legal system, to detain a man not charged with a crime would raise serious constitutional questions unless the writ of habeas corpus were suspended.

I call to the attention of Members that in spite of some of the comments which have been made that the veto was based upon title II, it was actually based upon title I.

I ask the gentleman from Missouri, the chairman of the Internal Security Committee, is that also his understanding? As I read it, that is what happened in 1950.

Madam Chairman, this debate may seem to be confusing. I say this because there are two committees involved here. The time has been divided between the majority and the minority of both committees which means a 4-way division of the time.

I am grateful to the chairman of the House Internal Security Committee for yielding to me because I wanted to quote from the veto message of President Truman back in September of 1950 in an effort to set the record straight that his veto was not based upon the much-discussed title II of the Internal Security Act of 1950 which sometimes has been referred to as the "Emergency Detention Act of 1950."

In my remaining time I may have I wish to make it quite clear that I am as much opposed to the existence or use of detention camps as any Member of this body. I well remember that Sunday afternoon of December 7, 1941. I remember the hysteria that swept the West Coast when over 100,000 Americans of Japanese decent were placed under detention. I think it should be clearly put in perspective, however, that title II of the Internal Security Act of 1950, with its section known as the Emergency Detention Act, was obviously not in force at the time of detention of those Japanese-Americans in 1942, but had it been in force it would have undoubtedly prevented such indiscriminate detention as that which occurred.

In my opinion, it is worth repeating

to point out once again that title II of the Internal Security Act was drafted, supported and passed by such champions of civil liberties as former Senator Douglas of Illinois, Senator HUBERT HUMPHREY of Minnesota, the late Senator Estes Kefauver of Tennessee, the late Senator Herbert Lehman of New York, and the late Senator William Benton of Connecticut. Title II was not the handiwork of such men as Senator McCarran, or Senator MUNDT, or even the late Senator Joseph McCarthy. A review of the record will show that Senator McCarthy voted against the amendments which later became title II. Who can possibly believe that the men who supported title II when it was passed were seeking to restrict civil liberties or to pass legislation repressive of our citizens?

The true facts are, Madam Chairman, that this original legislation we are talking about today, passed in 1950, aimed to prevent such unfortunate happenings as the roundup and indiscriminate detention of loyal American citizens in time of crisis.

Some men whom we regard as the most reasonable men in American history unfortunately may not seem to be reasonable in times of crisis or emergency. The roundup of Americans of Japanese descent occurred during the tenure of the late President Franklin D. Roosevelt. The Honorable Tom Clark, now a retired Supreme Court Justice was Attorney General at that time. Also involved in the detention was the Honorable Earl Warren, now retired Chief Justice of the Supreme Court. Yet, it would be difficult to name three men who have proven more their interest over the longrun in preserving the liberties of our citizens.

Madam Chairman, as we consider the repeal of title II, we should keep in mind only the facts and not let ourselves drift into emotionalism. If we intend to follow the facts, we should see that the retention of title II of the 1950 Internal Security Act with the added revisions or amendments as proposed by some of the members of the Internal Security Committee, will assure us of an even greater guarantee of civil liberties than now exists.

It is my hope that when the vote is taken our colleagues will give thoughtful consideration to a proper balancing of the vital interests of national security against some of the rights of individuals. Although most of the membership is interested in the repeal of the Emergency Detention Act of 1950, I do not believe we want to leave the United States helpless or deprive the President of an effective means of coping with sabotage or espionage in time of crisis. It is for this reason, Madam Chairman, that H.R. 820 should be adopted as an amendment in the nature of a substitute for H.R. 234. Such makes it explicit that no citizen of the United States shall be detained on account of race, color, or ancestry. This language should put to rest the many unfounded fears that exist because of misinformation. Yet we must not cripple ourselves by throwing out the tools to deal with subversivies in time of crisis.

Mr. ICHORD. I say to the gentleman from Missouri, that is the way I read the veto message.

I would again make it very clear that we are not dealing with a present power of the President of the United States today. We are dealing with a war-time power of the President of the United States today.

The issue is not detention camps. There are no detention camps in the United States of America. I sincerely hope that there will never be any detention camps in the United States of America.

I say again that if title II had been on the books in 1942 it is my sincere opinion that what happened to the Japanese would not have happened.

These are my intentions: To prevent that dastardly act from again happening. I say that it would not have happened because if the act had been on the books the Federal Government would have been required to look at the loyalty and to look at the actions of the particular individuals.

They would not have been permitted under title II as amended to pick up a whole race, as they did, and locate them in what was called relocation camps. It is pure rhetoric whether you use the term relocation camps, concentration camps, detention camps, or jails. This is the point I made in regard to the recent demonstrations in Washington, D.C. That bullpen out there was just as much a relocation camp as it was a jail or whatever you want to call it. People were detained there, and some of them were probably innocent people.

At the same time I am not criticizing the Washington, D.C., police. I know, and it is my feeling, that if the police had not done what they did, the city of Washington would have suffered millions of dollars worth of damage, because Rennie Davis, who was the leader of the wild ones, made it clear that it was his intention he was not only going to close down the Congress, but he was going to completely disrupt the city of Washington, D.C.

I think that probably—and this is my point—in an emergency situation there is no need to permit that to be done by the discretion of man. If it is to be done in an emergency situation, I want it to be done by law and I want the liberties of the individual protected as much as possible.

As the gentleman from Missouri pointed out, title II does retain the writ of habeas corpus.

Mr. POFF. Madam Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Madam Chairman, I thank the gentleman for yielding.

In all the discussion surrounding the question of whether or not to repeal the Emergency Detention Act, I think we have failed to take into full consideration the recommendations of those with the most expertise on the subject.

The House Committee on Internal Security has been represented here as a house divided while the House Committee on Judiciary offers an apparently unanimous front. Is that a criterion? I think not. The House Committee on Internal Security held 11 days of hearings in the 91st Congress, heard the testimony pro and con of some 35 witnesses, accepted into the hearing record 230 statements from authorities in all walks of life and compiled a record of testimony nearly 1,000 pages in length.

The members of that committee wrestled seriously and sincerely with the problem posed by the issue of repeal of title II. After lengthy deliberation, a majority of that committee voted against outright repeal and in favor of what has been placed before us today as H.R. 820. The members of that committee, whether for or against, are experts now on the subject and the majority are experts against, not for, repeal.

Contrast this with the consideration the Kastenmeier subcommittee gave to the question. They heard the testimony of six witnesses—all of them in favor of repeal, accepted 16 statements for the record and then reprinted the report of the HCIS and the brief account of Senate proceedings with respect of title II. They did all of this in 1 day and met a second time merely to give unanimous support for repeal after accepting an amendment providing that no person may be detained under any circumstances without an act of Congress.

It is obvious to me that the momentum of the Kastenmeier subcommittee was emotionally generated. The much more deliberate and balanced manner in which the House Committee on Internal Security debated the matter generated the type of calm reasonableness that the House has a right to expect of its standing committees. The very fact that there is division on such a complicated and delicate issue as the Emergency Detention Act within the ranks of the HCIS is a testimonial to the thoughtful approach taken by that committee's chair man and members.

For these reasons, I urge the adoption of H.R. 820 and the defeat of H.R. 234. In other words, I believe this House should support the majority of the committee that has undisputed claim to expertise on the subject of the Internal Security Act of 1950. Thank you.

Mr. MATSUNAGA. Madam Chairman, will the gentleman yield?

Mr. CRANE. Yes, I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. The gentleman, of course, realizes that the Internal Security Committee reported H.R. 820 out by a majority of only one vote, the vote being 5 to 4.

The gentleman I am sure does not mean to impugn the Judiciary Committee which reported the bill out by a unanimous agreement, not a single dissenting vote came out of that committee.

Mr. CRANE. To be sure.

Mr. MATSUNAGA. The gentleman also realizes, I am sure, that the Department of Justice which is charged with the responsibility of administering title II has recommended its repeal?

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

Mr. ICHORD. Madam Chairman, I yield the gentleman 2 additional minutes for the purpose of answering some questions.

Mr. CRANE. I thank the chairman of the House Committee on Internal Security.

I would like to reiterate the point I made previously: You cannot begin to compare the length of time spent on this matter by the Judiciary Committee with that length of time and in-depth study which was made by the House Committee on Internal Security. I do not think anyone would dispute that, including the gentleman from Hawaii.

I would add in addition to this that notwithstanding the fact that that margin of majority vote of the House Committee on Internal Security was only one that is not the point.

There was a detailed and in-depth examination, as I have indicated, and after a full hearing of both sides of the issue that committee made its determination to recommend H.R. 820 by a majority vote. This body operates under the principle of majority decisions.

Mr. ICHORD. Madam Chairman, will the gentleman yield to me?

Mr. CRANE. I yield to the chairman of the Committee on Internal Security.

Mr. ICHORD. Let me correct the gentleman from Hawaii also. I believe if he will check the record, he will find that the vote was 5 to 3 rather than 5 to 4.

I would like to also point out to the gentleman the fact that I think it is very understandable why the Judiciary Committee came out with a unanimous opinion. They did not even hear any opposing witnesses.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. The gentleman from Missouri was invited to attend and testify before us if he wanted to. And, I might say that we had the benefit of the testimony of opposing witnesses. The gentleman from Missouri has been holding up the two volumes in front of this Chamber, suggesting how that the heavy volume is the work of their committee and that the slender volume reflects the work of his committee. The fact is that we had the benefit of what they did and in examining that I would say that the support for their position in that volume is slight the evidence in support of repeal of title II, consuming nearly entirely the heavy volume.

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

Mr. ICHORD. Madam Chairman, I yield the gentleman 1 additional minute.

The CHAIRMAN. The gentleman from Illinois is recognized for 1 additional minute.

Mr. ICHORD. Madam Chairman, if the gentleman will yield to me, to put the matter in proper perspective. I ask the gentleman from Wisconsin if he heard any witnesses in opposition to the repeal of title II?

Mr. KASTENMEIER. We had the same opposing witness that you had as far as submitting material.

Mr. ICHORD. And who was that?

Mr. KASTENMEIER. The Liberty Lobby.

Mr. ICHORD. Did they appear?

Mr. KASTENMEIER. They chose not to appear.

Mr. ICHORD. Did you have any other witness appear where you could subject them to cross-examination? You have been talking about cross-examination. Did you have any other witness before the committee where you could subject them to cross examination?

Mr. KASTENMEIER. Frankly, we do not know of anyone who is opposed to the repeal of title II except the Liberty Lobby.

Mr. ICHORD. Oh, no, no. The gentleman from Wisconsin——

Mr. KASTENMEIER. Then, the three or four individuals that you had testify before your committee and we are very familiar with them.

Mr. ICHORD. The Liberty Lobby did appear and we know what the gentleman from Wisconsin is endeavoring to do. The gentleman says that you had the entire 1,000 pages before you?

Mr. KASTENMEIER. That is true.

Mr. ICHORD. Has the gentleman read the entire 1,000 pages?

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

Mr. KASTENMEIER. Madam Chairman, I yield myself 1 minute.

Madam Chairman, unlike the gentleman from Illinois from my committee, I have not read the entire volume of the hearings of the Internal Security Committee. I have read much of it. I have examined, I think, every area of testimony contained in this thousand-page volume. I know who testified against the repeal of title II, and who did not. That is why I say to the gentleman that it is this somewhat slender volume that reflects the number of those that support the position taken by the gentleman, and most of this heavy volume expresses the relatively heavy opposition to the gentleman's position.

Mr. ICHORD. Madam Chairman, will the gentleman yield?

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

Mr. ICHORD. Madam Chairman, as long as the gentleman is going to participate with that kind of rhetoric and emotion we will deal with it in that way. And I also know——

Mr. KASTENMEIER. The gentleman himself has started it.

Mr. ICHORD. I will take my own time to reply to the gentleman.

Mr. KASTENMEIER. The gentleman from Missouri started it before the committee today.

Mr. ICHORD. Also I would ask the gentleman from Wisconsin if he read the testimony of Miriam Friedlander before my committee? I do not believe that the gentleman has.

Did she not appear before your committee?

Mr. KASTENMEIER. No; she did not.

Mr. ICHORD. She did not? Have you read her testimony before my committee?

Mr. KASTENMEIER. Yes; I have.

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

The Chair at this time recognizes the gentleman from Missouri for his final 5 minutes.

Mr. ICHORD. Madam Chairman, let me say first of all that I do not question the sincerity or the motives of the gentleman from Wisconsin. I believe that he desires the same objectives as I do.

The gentleman from Wisconsin brought out the point that the Liberty Lobby opposed the repeal, which organization the gentleman from Wisconsin considers a rightwing, conservative group——

Mr. KASTENMEIER. Madam Chairman, would the gentleman yield on that?

Mr. ICHORD. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. You are characterizing my position, and it is something I did not say at all, and they were highly gratuitous remarks, as I think the record will show, on the part of the gentleman from Missouri, to impugn to me that view.

Mr. ICHORD. Well, how does the gentleman characterize the Liberty Lobby?

Mr. KASTENMEIER. I do not presume to characterize them.

Mr. ICHORD. I am happy to hear that. But I would also point out on the other side that there were other people appearing before the House Committee on Internal Security urging repeal, and that was the Committee for Constitutional Liberty headed by one Marian Friedlander, who represents the extreme leftwing of the political spectrum, and who is a known and identified Communist Party member, and who definitely has led the campaign for the repeal of title II.

Let me make it perfectly clear to the gentleman—and this is documented in the RECORD, and I ask each and every Member of the House to read the testimony of Marian Friedlander before the House Committee on Internal Security—now, I am not making the argument that just because the Communist Party wants to repeal title II that we should be for H.R. 820. My argument is that the House Subcommittee of the Committee on the Judiciary has not done its work. It endeavored to rush these hearings through. It heard no opposing witnesses—and there were opposition witnesses available.

I believe that the reason why the subcommittee did not do its homework well is that they were trying to beat the House Committee on Internal Security committee in reporting a bill.

I would say to the gentleman from Wisconsin that this is my belief—that this is why the Committee or the Subcommittee on the Judiciary considered this matter so hurriedly and the reason why you did not inquire in depth into the issues surrounding this matter—and the reason why you jumped from the frying pan into the fire—you have changed your position—how many times now?

First of all, you were ready to report a bill that would just repeal title II. At one time I considered doing that.

Next, you jumped to the support of the title amendment which would repeal it and add or state:

No person shall be detained except in compliance with title XVIII.

Then you jumped to another position and as a consequence modified the title

18 amendment, and you do not have the support of the Department of Justice on your latest amendment, commonly known as the Railsback amendment.

This is a point that I am making.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. The bill, H.R 234, as originally introduced in this Congress and supported by 160 Members is the only bill of this type that was considered by the subcommittee of the Committee on the Judiciary. It was not the Railsback amendment. The Railsback amendment is included as the one amendment we did make in this bill, and it is included in the bill presently before you.

We are taking—I should tell the gentleman—the recommendation literally of the Department of Justice or at least the implication of their testimony.

Now the gentleman himself admits that the committee did not take the bill as presented to him either, but you also modified the bill.

So I fail to see how this business comes up that the gentleman mentions.

Mr. ICHORD. I did hear opposition witnesses. I heard witnesses for the repeal and we heard witnesses against the repeal.

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

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

(Mr. EDWARDS of California, at the request of Mr. KASTENMEIER, was granted permission to extend his remarks at this point in the RECORD).

Mr. EDWARDS of California. Madam Chairman, H.R. 234 would repeal the Emergency Detention Act, title II of the Internal Security Act of 1950, and amend title 18 of the United States Code to prohibit the establishment of detention camps similar to those which were used to incarcerate Americans of Japanese ancestry during World War II.

At the time of the passage of the Emergency Detention Act, the United States had just recovered from 4 years of a world war, and the ambiance of fear and hate that led to the evacuation and internment of Japanese Americans during that war. We were physically in the midst of the Korean war, and, psychologically, in the midst of the "cold war." McCarthyism and anticommunism had reached the highest of emotional levels.

Today, times and conditions have changed, and laws and institutions must, of necessity, also change. In the words of one our Founding Fathers, Thomas Jefferson:

> Laws and constitutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

We should discard laws that no longer fit the mood and progress of the country. Because the tense and narrow-minded atmosphere of 1950 is no longer with us, we must carefully review and reconsider those laws whose constitutionality was and is questionable. The Emergency Detention Act is a prime example.

Let us assume that the Emergency Detention Act is invoked. All accused persons would then be faced with the following inconsistent and unjust situations:

First. Warrants of arrest would be issued by the Department of Justice. If the accused were charged with violating any other State or Federal law, the warrant would be issued by a court or a magistrate with all its constitutional controls.

Second. In order to test the validity of his arrest, the accused would go before a preliminary hearing officer appointed by the President. If the accused were charged with violating any other State or Federal law, he would go before an impartial judge, who is not subject to political removal.

Third. If the validity of the arrest were sustained by the preliminary hearing officer, the accused would be required to seek review before a detention review board, and not a court of the United States.

Fourth. Potentially, the accused would be denied a trial by jury, the right to confront his accusers, and the right to cross-examine—all sixth amendment rights.

In sum, the existence of the Emergency Detention Act creates the following contradictory situation: A person who actually commits a crime, such as espionage or treason, will be accorded all of his constitutional rights—indictment, trial by jury, bail, and full judicial review. But someone about whom there is "reasonable ground" to believe that he "probably will engage" in a crime in the future may be imprisoned by an administrative proceeding without any regard to his constitutional rights. The result of all this is that the accused person is assumed to be guilty throughout the entire proceeding. This is clearly in violation and contravention of the fundamental premise of our system or justice—innocent until proven guilty.

Title II goes beyond the bounds of the law in still another way. In article I, section 9, the Constitution provides for emergency measures for internal security "when in cases of rebellion or invasion the public safety may require it." But title II provides emergency measures even when the public safety is not threatened. Under title II, the President is authorized to set the procedures of the statute in motion in any of three circumstances: First, invasion of the territory of the United States or its possessions; second, declaration of war by Congress; or third, insurrection within the United States in aid of a foreign country. It is conceivable, then, that title II could go into effect if a small and distant territory were invaded, or if Congress declares war on a country on the other side of the globe.

It has been said that if we repeal title II, there would be inadequate internal security measures for the country. On the contrary, we already have an abundance of internal security measures. Title 18, United States Code 2385, provides penalties for advocating the overthrow of the Government. Title 18, United States Code 2152, is designed to protect fortifications, harbor defenses, or defensive sea areas. Title 18, United States Code 2388, provides penalties for engaging in seditious activities affecting the Armed Forces in time of war. Title 8, United States Code 1185, authorizes the President to regulate the movement of aliens in and out of the United States during a war or a national emergency. Title 18, chapters 39 and 40, title 18, United States Code 793, 794, and 798, title 50, United States Code 797, and more and more. It can hardly be said that we have insufficient internal security measures. It would be more accurate to say that the measures we have should be examined to see if they are not psychologically, if not legally, repressive.

It has also been said that it is better to have title II as a limit and restraint on the executive branch, rather than allow the executive branch a completely free hand. This argument is pure cloud cover. In the first place, title II gives the executive branch virtually a free hand anyhow. Second, title II only states what the executive branch can do, not what it cannot do. Finally, the argument assumes that the executive branch can do anything it wants to do, even in the face of our constitutional system of "checks and balances."

Finally, it has been said that the furor in support of the repeal of the Emergency Detention Act is ridiculous because the detention of the Japanese Americans during World War II was done under the authority of an Executive order, and not the statute in question—which, it is true, has never been invoked. This statement is true in and of itself, but not within the context of the argument for the repeal of title II. The experience of the Japanese Americans during World War II was not mentioned because their internment was caused by title II. The Japanese-American experience has only been cited as an example of what can happen under the fear and stress of external conditions. The fact that the Japanese Americans were not interned under the authority of an existing law lends even greater credence to the argument for repeal. Most Americans today believe that the interment of Japanese Americans was a tragic error. Since title II legally provides for a similar situation, can it not be said that its enactment is also a tragic error? The Japanese American experience, then, serves only as a clear example of a denial of constitutional rights.

The movement for the repeal of the Emergency Detention Act has hundreds of individual and group supporters. Even the present administration supports the repeal of title II. Mr. Robert Mardian, Assistant Attorney General of the Internal Security Division of the Department of Justice, on behalf of the Department of Justice, said in his statement to the House Judiciary Committee:

The Department of Justice is unequivocally in favor of repealing title II of the Internal Security Act.

The distinguished chairman of the House Judiciary Committee, Mr. EMANUEL CELLER, in leading the floor fight against the enactment of the Emergency Detention Act in 1950, said that title II is "vicious, totalitarian, un-American."

In 1950, President Truman in his veto of the Internal Security Act said:

This kind of legislation is unnecessary, ineffective and dangerous.

Congress overrode Mr. Truman's wise and rational veto.

Former Supreme Court Justice Arthur Goldberg has said that the Emergency Detention Act has given many Americans the grounds to fear that in a crisis, the procedures exist for sending them to "concentration camps." He feels that some of this fear is well-founded on the basis of the potential of title II. And as former Ambassador to the United Nations, Mr. Goldberg has said:

This statute was thrown in my face as an illustration of something in United States law which would sanction what the Soviets and other communist countries have themselves provided [concentration camps].

Of all those who support H.R. 234, one person in particular deserves special thanks as the initiator and "sparkplug" of the repeal of title II, Congressman SPARK MATSUNAGA. Mr. MATSUNAGA was not interned during World War II, although many of his relatives and close friends were. During the war, Mr. MATSUNAGA fought courageously as an infantry officer of the famous 1st Battalion of the 442d Regimental Combat Team. He was understandably irritated by the fact that he and other loyal Japanese Americans were fighting and dying for the very country that imprisoned their families and fellow Japanese Americans. Since Mr. MATSUNAGA came to Congress in 1962, in the same freshman class as I, he has fought passionately to repeal the law that holds the potential for another tragic internment.

In considering H.R. 234, I hope that Mr. MATSUNAGA's struggle for justice will be remembered. I join him in strongly urging the passage of H.R. 234 in unaltered form.

Mr. KASTENMEIER. Madam Chairman, I yield 6 minutes to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Madam Chairman, I thank the gentleman for yielding and I will try not to use the full 6 minutes.

Madam Chairman, I am one of the 52 Members who are now serving in the House of Representatives who were serving when the title II legislation was passed 21 years ago. I voted against the title II legislation at that time with a deep feeling that I was doing the right thing. I voted to uphold President Truman's veto at that time.

But I want to go back to the time of the executive detention camp order of 1942. I was campaigning for Congress at that time in my district and a few months later I was elected to the Congress. I personally saw the oppression of the Japanese people in California. Many of them were my neighbors. Their liberties were taken away from them. Their properties were confiscated. They were incarcerated without due process of law in any way in camps and in racetracks and old buildings and different places like that. Their treatment in those camps for a long time was lacking in what I would call decent humane treatment. It was, as the gentleman from Missouri—and I respect the gentleman from Missouri (Mr. ICHORD)—it was as the gentleman from Missouri said—"A dastardly deed." It was a dastardly deed.

I publicly opposed the action at that time, and in the following years in Congress I continued my opposition openly to the whole spirit of that incarceration and to the treatment that was being given to those people.

In the fall of 1944, in my first reelection campaign, I was faced with the opposition of one of two major newspapers in Los Angeles and many, many conservative and patriotic organizations that labeled me with names which I shall not repeat, but all of which were names that indicated a lack of fidelity to the best interests of our Nation. I think we ought to wipe this legislation from the statute books. I think we ought to do the one thing we could do that would be understood to make amends to the people who were mistreated in those years, and I think we could only do this by repealing title II, which was born, I might say, in the McCarthy years, in the Korean War years, when hysteria was running high and everyone who had a liberal though was suspect and many times labeled as being "Commie" sympathetic and even Communist. I went through some of that myself and I know what I am talking about.

I am also aware that many of my friends whom I consider just as liberal, conscientious and dedicated as I am, yielded to the tremendous hysteria and propaganda at that time, and they went along. Some of their names have been used here. They went along with this at that time because of the pressure of the hysteria propaganda. But I also know that many of them recanted their action in later and cooler years and were sorry that they did take part in support of this action against 112,000 Japanese, most of them in California, a few in other Western States.

Then I point to the fact that during the war those very people who were put into the camps, young Nisei men, wanted to volunteer and fight the common enemy of the United States, and the 442d Regiment was formed. The gentleman from Hawaii (Mr. MATSUNAGA) was a member of that regiment. And I say to you today that regiment, composed completely, with the exception of one or two officers, of Nisei Japanese, received more casualties, both of wounded and deaths, and received more medals than any other regiment in the U.S. Armed Services, and the records will prove that.

So, who are we in times of hysteria and propaganda to gather 112,000 people—men, women and children—and tie them up into camps and keep them without the just process of law, to which every human being should be entitled, whether he is an American citizen or a native, if he lives within our shores?

So I will support H.R. 234, and I am going to vote against the bill, H.R. 820 of my friend from Missouri. I am doing this for the reasons I have stated, and I urge my friends to do likewise, because I know what this means to thousands and tens of thousands of Japanese who carry this stain upon their honor and upon their souls. I ask that the Members when they vote to consider these points.

Madam Chairman, 3 years ago, I joined with my colleague from Hawaii, the Honorable SPARK M. MATSUNAGA, in introducing legislation to repeal title II of the Internal Security Act of 1950. More than 130 members on both sides of the aisle joined us in cosponsoring that bill. This session, I again joined with Mr. MATSUNAGA in reintroducing this legislation, along with the Honorable ROBERT KASTENMEIER of Wisconsin and the Honorable ABNER MIKVA of Illinois.

More than 150 members representing both parties have joined in cosponsoring this bill. The Nixon administration has endorsed it. And the House Judiciary Committee has reported it without a single objection.

Title II, as most of you know, authorizes the detention of American citizens on the basis of mere suspicion that they might commit espionage or sabotage in case of declared war, an invasion of U.S. territory, or an insurrection in aid of a foreign enemy.

As I have said, I am one of the 50 Members of the present House of Representatives who were serving in the Congress when this legislation was passed. I mention this only to stress the fact that those other Members and I remember that the Emergency Detention Act was passed during a time of great national hysteria and uncertainty.

We had concluded World War II only 5 years previously. We had weakened ourselves militarily and economically, through pressures brought upon the Federal Government to bring the boys home, and demands for removal of wage and price controls.

Not so short-sighted as we, the Soviets had continued to build militarily and to subvert Europe and Asia. We saw the blockade of Berlin and the invasion of South Korea.

We heard wild accusations of Communists in Government, and witnessed spectacular trials of members of the Communist party, espionage agents, and conspirators.

The terms "fifth column," "fellow traveler," and "soft on communism" filled every newspaper and broadcast. Any Congressman or public official who spoke in defense of basic human and constitutional rights was labeled a Communist sympathizer.

Good men went down to defeat at the polls for defending civil liberties. Others were able to gain high public office by catering to the public hysteria.

I opposed the Emergency Detention Act in 1950, and I voted to sustain President Truman's veto of that legislation. My reasons for opposing it then are identical to my reasons for supporting a bill to repeal it.

The provisions of the Emergency Detention Act were apparently inspired by the action taken against our Japanese

American people during World War II, another period of public fear and hysteria.

I was a freshman Congressman then, and I clearly remember my Japanese neighbors being systematically rounded up and placed in detention camps, where they remained until the end of the war.

In World War II more than 110,000 persons of Japanese ancestry, over two-thirds of whom were native born citizens—men, women, children—were ordered evacuated on the grounds of "military necessity."

Three thousand miles to the west in Hawaii there was no similar "military necessity" tha' required incarceration of Japanese Americans in Hawaii. Keep in mind that Hawaii was the territory that was actually attacked and was far closer to the enemy than the Pacific Coast of the mainland United States.

But, nevertheless, those in charge of the Western Defense Command, in consultation with other civilian officials of the coastal regions persisted in their claim that the Japanese American population on the west coast alone was dangerous and disloyal to the United States. No sabotage had been committed. No evidence of espionage had been discovered. The FBI had already "picked up" and were detaining individual Japanese aliens against whom any suspicion of possible disloyalty was feared.

In spite of this selective detention, on the "mere suspicion of disloyalty," 110,000 human beings, the majority of them American-born citizens, were forced to give up their homes, businesses, and properties, to be herded like animals into what euphemistically were called war relocation centers located in the barren, desolate wastelands of the interior.

Even American citizens who had but one-sixteenth Japanese blood were forced into what amounted to concentration camps. In another part of the world, Hitler in Nazi Germany decided that people with only one-eighth Jewish blood had to go to his concentration camps.

None of the evacuees were charged with any overt act or crime against the United States. The sole justification for the incarceration was that the Japanese American might be disloyal because he was of Japanese ancestry and thereby might have "an affinity with the enemy." None were given a trial or a hearing of any kind. In the history of the United States, even the most treacherous murderers or obvious traitors are presumed to be "innocent until proven guilty." The Japanese Americans in World War II were not afforded this right.

I support the repeal of the Detention Act on other grounds. I believe that all men should be free to walk the earth, unless proved to be a danger to society.

This principle goes back more than 700 years through the Anglo-American system of justice to the Magna Carta. That document reads in part:

> No freeman shall be taken or imprisoned, or dispossessed, or outlawed, or banished, or in any way destroyed, nor will we go upon him, nor send upon him except by the legal judgment of his peers or by the law of the land.

This provision is the basis for the "due process" and "jury trial" clauses in our Federal Constitution. It is with respect to these fifth amendment rights that I find the Emergency Detention Act most troublesome.

The law deprives an individual of his liberty on the basis that he probably will engage in acts or conspiracies which are already prohibited by Federal law.

Further, the law permits arrest and detention on the basis of a warrant issued by an administrative official of the Justice Department—not a commissioner or judge. This authority to order arrest could be delegated to agents of the Federal Bureau of Investigation, to Federal marshals, or to commissioned or noncommissioned officers of the Armed Forces assigned to the Justice Department.

Arrest and detention need not be based upon probable cause, but only upon a nebulous reasonable belief. This reasonable belief could presumably be based on rumor, association, relationship, or membership in a group. The individual who has lost his liberty, reputation, property, employment, or business would have no right to confront or cross-examine witnesses if the claim of national interest were made. There is no provision for bail.

The law creates the following incredible situation: One person who actually commits sabotage or espionage will be accorded all of his fifth amendment rights—indictment, bail, a jury trial, confrontation of witnesses, compliance with the rules of evidence, and full judicial review.

On the other hand, one about whom there is a "reasonable belief" that he "might" commit these acts may be imprisoned by an administrative proceeding, similar to that utilized by the Federal Trade Commission, without regard to his constitutional rights.

I believe that the Emergency Detention Act runs counter to the thrust of constitutional law since the time of adoption of the fifth amendment. Its substances invade the concept of liberty guaranteed by the Constitution. Its procedure violates the fifth amendment guarantee to "due process of law."

In my view, we, in Congress, should not leave patently unconstitutional laws upon the books awaiting action by the judicial branch. To do so is to lend credence to charges of congressional irresponsibility and indifference. Congress should take the initiative and correct its own mistakes.

In urging repeal of the Emergency Detention Act, I am mindful of the hundreds of responsible persons and organizations which also support that action. Among these are the legislature and the Governor of the State of California.

I urge repeal of the act with the knowledge that there are many other laws which amply protect our national security, and I urge repeal out of the same concern voiced by President Truman in his veto message, and I will quote this portion:

> It is not enough to say that this probably would not be done. The mere fact that it could be done shows clearly how the bill would open a Pandora's box of opportunities for official condemnation of organizations and individuals for perfectly honest opinions.

Madam Chairman, as we all know, there was no title II on the statute books in World War II, since the Internal Security Act of which it is a part was not enacted until 1950. Accordingly, there has been much speculation as to what might have happened had there been a title II or similar legislation on the books at the time and the question is asked whether such legislation would have provided some safeguard to those of Japanese ancestry in that time of hate and hysteria against the Japanese enemy.

My estimate of what might have happened if there had been a title II is similar to that of Mike Masaoka, the Washington representative of the Japanese American Citizens League who in the spring of 1942 was the national secretary and field director of the JACL.

In testimony to congressional committees, Mr. Masaoka, whom many of us know and respect, declared that if there had been a title II on the statute books at that time the arbitrary mass evacuation would have been promulgated sooner and on a much wider scale, for title II would have served as the instant guide for the Government to act against those who, by accident of birth, happened to look like the enemy.

In his judgment, Hawaii might not have been placed under martial law and all those of Japanese origin placed under immediate detention in concentration camps if title II were operative at that time. Moreover, even on the continental mainland, all those of Japanese descent—everywhere, in every State—would have been placed in custody and in concentration camps right after December 7, 1941, instead of only those residing in California and the western halves of Washington, Oregon, and Arizona, and then only several months after the attack on Pearl Harbor. If there had been a title II effective then, almost half a million Japanese, most of whom would have been citizens, instead of 110,000, would have been unnecessarily and arbitrarily evacuated and imprisoned in concentration camps.

Because there was no title II in operation then, there were no congressional guidelines to follow and it took weeks and months for the Executive and the Army to decide what should be done and how. Had there been title II on the books then, with the procedures for immediate detention set forth in the law, more people would have been forced to suffer the tragedy, the travail, and the indignity and humiliation of being sent to concentration camps simply because they happened to look like the enemy.

Title II then would not have been a safeguard for those of Japanese ancestry, only the legal sanction to have acted more quickly in sending more people to concentration camps than actually happened.

Today, as the Department of Justice emphasizes, there are many who—rightly or wrongly—fear that this title II would be used to imprison them because some in authority who disagree with their thoughts and philosophies might suspect that they might conspire with others to commit subversive acts at some future time.

To restore confidence in the judicial process and in the American way, we must repeal title II and eliminate the authorization for emergency detention. Not only is there no need for such repressive and retrogressive legislation but there is no need for the concentration camp concept or mentality in American life.

Mr. ICHORD. Madam Chairman, will the gentleman yield?

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

Mr. ICHORD. I was only 16 years old, a high school youngster in the interior part of the United States, in Missouri, when this thing happened to the Japanese, and my attention was not directed to it. I hope if I had been in the position of the gentleman from California—and I think that I would have—I would have stood with the gentleman from California. And I point out that he was standing with J. Edgar Hoover at that time He was also opposed to it.

Mr. HOLIFIELD. And I have stood with him many times, and I have not criticized him once on the floor of this House.

Mr. ICHORD. I cannot understand the rationale of the gentleman from California as to why this should be a symbol of what happened to the Japanese, because this is not on the statute books. If it is a symbol, it has to be a false symbol, because this act was not passed until 8 years later.

(Mr. WYATT, at the request of Mr. POFF, was granted permission to extend his remarks at this point in the RECORD.)

Mr. WYATT. Madam Chairman, I am a cosponsor of the bill the House is considering today, and I have a special feeling for this legislation. Prior to entering the Marine Corps in World War II, I served as a special agent in the FBI during the latter part of 1941 and the first half of 1942.

Commencing in January 1942 my office of assignment was Seattle. During the next months, I personally observed the almost indiscriminate rounding up of alien Japanese and U.S. citizens of Japanese ancestry. This was official executive policy of the United States. I observed many, many injustices, not only with respect to persons, but also property rights. I witnessed forced sales of personal property, and many tearful goodbys.

We know now, but did not realize then, that we acted out of hysteria, and needlessly.

It is for these reasons that I can fully appreciate the spectre which still to this day haunts Americans of Japanese ancestry and others who were close witnesses to those events.

The present title II was not law in those years, but its existence must serve a very powerful purpose if we maintain it in view of the very real and reasonable fears of those who went through the horrible experiences of the 1940's.

We have never used the title II authority. We never will use this authority. We have adequate laws without title II to protect the internal security of the United States. If our situation should drastically change, requiring new legislation, we can legislate responsive to the current requirements.

Mr. POFF. Madam Chairman, I yield 4 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Madam Chairman, I thank the gentleman for yielding. I realize there are many who are interested in this legislation.

Madam Chairman, I rise in support of H.R. 234 as approved by the House Committee on the Judiciary.

The points have been well debated today, and very little can be added to the remarks that have been made in support of the bill. It will remove from the statute books an act which was approved at a time when fear was a dominant consideration in our land, and set forth a clear policy that no repressive acts, or wholesale detention will hereafter be permitted, which, I believe, is consistent with the basic concepts upon which this country has been built.

The need to repeal the Emergency Detention Act completely has been argued by many organizations, despite the contention of the opposition. The Emergency Detention Act stands as a harsh symbol of repression in our country, and its continued presence is viewed as repugnant by thousands of Japanese Americans as well as other minority groups. So long as it remains in existence there will be fears among our people that the Government will repeat its massive error, which it made in World War II, when about 112,000 Japanese Americans, residents of our Western States—9,000 of whom came from my State of Hawaii—were forcibly removed from their homes, without due process of law, without trial, and placed first in temporary camps and later in 10 concentration camps established in several Western States.

About two-thirds of these people deprived of their liberty and rights by arbitrary governmental action were native-born citizens of the United States, and there was never established any reason whatsoever to question their loyalty or their dedication to our Nation, except their ethnic background, which was the only basis for suspicion. Despite the incarceration of these people, thousands of them volunteered for active duty to fight in the defense of this country.

Ironically, the loyalty of Japanese-American citizens had to be proved in combat during the war. It was conclusively proved, with a proud record, which the gentleman from California has just enunciated. Theirs was the most decorated unit in the history of the United States.

But by the time this was established and this was generally acknowledged by the country everywhere, it was too late to remove the stain of this great outrage which was committed against all the patriotic citizens these men represented in battle.

While these detentions were made long before the adoption of the Emergency Detention Act, as the gentleman from Missouri has reiterated many times, its provisions seem designed to provide legislative ratification and sanction of this dastardly act and to provide blanket authority for future capricious banishment of citizens to political concentration camps because of their ethnic background.

The act is patently unconstitutional because it allows the deprivation of rights purely on the basis of "reasonable ground to believe" that a person "probably" will engage or conspire to engage in acts of espionage or sabotage. It thus states that a person may lose his freedom merely on suspicion, and may be placed in a concentration camp merely on suspicion.

How does a person prove that, in the mind of someone else, there is not a probable suspicion against him? There is no way in which one's innocence can be established, when there are no specific charges!

This is the only legislation we are asking the House to repeal today. I know that the act has never been used, and for that reason there is no judicial interpretation on the issue of constitutionality, but we should not, as members of the legislative branch, abdicate to the judiciary our own constitutional responsibility to make sure that the laws of our land are in conformity with the Constitution.

Therefore, I urge the Members of this House to vote for H.R. 234.

The CHAIRMAN. Will the gentleman from Ohio please use or yield the 4 minutes remaining to the gentleman.

Mr. ASHBROOK. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, as we draw to the close of our debate, I believe several things are clear; maybe patently clear, maybe not.

It appears to me it is obvious from all of the debate that eradicating facilities for detaining insurrectionists will not remove that threat. After listening to the debate, it is equally obvious that eradicating facilities for insurrectionists or marking off the books title II will still not remove the threat of their incarceration. Everyone who spoke on this issue recognizes that there is the potential threat of incarceration of insurrectionists in a time of peril. Whether we like it or not, it is there.

Recognizing that, I maintain there is a far greater likelihood that due process will be observed in time of national peril if some congressional guidelines such as those embodied in H.R. 820 are enacted by the Congress. I totally fail to see the logic of saying that due process of law in time of national emergency will be more likely to be observed with nothing on the books when the history of the executive actions of 1941 and 1942 are ominously in the past. I do not think it is enough to say, as some of the proponents of H.R. 234 have said, that jury trials and constitutionally appropriate safeguards will be observed at any time when such an emergency, God forbid, should again present itself in this country. It is sufficient at this time to reiterate that they were not observed in 1941 and 1942. Jury trials and constitutionally appropriate safeguards are not new. They were there and they were not observed.

In which case is it more likely that we

will have these safeguards observed? I happen to believe if a congressional statement is on the books, such as it would be in H.R. 820, that there is less likelihood that some future President confronted with a similar situation as President Roosevelt was will usurp the power as he did then under the exigencies of the moment and take actions which today are being called dastardly. Obviously they were. H.R. 820, in my judgment, the amendment of the Internal Security Committee, has a great restriction on the President's power vis-a-vis insurrection. The Presidential power would be circumscribed under this bill but it would not be circumscribed under H.R. 234. In fact, I would say that H.R. 234 does nothing to dispel the very fears expressed by previous speakers. It does nothing to dispel the fear that what was done in 1941 and 1942 cannot be revisited on us.

For that reason I encourage and, indeed, urge the House to vote for the amendment H.R. 820 when the time comes under the parliamentary procedure.

Mr. KASTENMEIER. Madam Chairman, I yield such time as he may use to the gentleman from New York (Mr. RYAN) a member of the subcommittee.

Mr. RYAN. Madam Chairman, I rise in support of H.R. 234, which repeals the invidious Emergency Detention Act—title II of the Internal Security Act of 1950. I am a cosponsor of this bill which will erase from the statute books an act which contradicts protection of our civil liberties and which is freighted with the aura of repression.

The Emergency Detention Act, which H.R. 234 repeals, embraces a view of the world and of the exercise of first amendment rights of speech and association which is regressive and offensive. Its minimal protection for the individual against unwarranted detention is unacceptable in a society which enshrines due process as a basic bulwark of freedom.

The time is particularly apt for repeal. The tide of repression is growing, and our action can help to stem that tide. We see this tide in assertions by the executive of virtually unrestricted power to tap telephones. We see it in administration espousal, and congressional support, of no-knock laws and preventive detention. We see it in hostility to the rights of the poor, and in repudiation of civil rights.

The Emergency Detention Act proceeds on the assumption that, in times of "internal security emergency," it is justified to detain "persons who there is reasonable ground to believe probably will commit or conspire with others to commit espionage or sabotage." Making the usual ritualized obeisance to "constitutional rights and privileges" common to these repressive measures, the Emergency Detention Act—not even premised on "probable cause"—gives three criteria to determine "reasonable ground" to believe a person will engage in or conspire to engage in espionage or sabotage:

(1) whether such person has knowledge of . . . the espionage, counter-espionage, or sabotage service or procedures of a government or political party of a foreign country . . . and whether such knowledge . . . has been acquired by reason of civilian, military, or police service with the United States Government . . .;

(2) Any past acts or acts of espionage or sabotage . . . against the United States . . .;

(3) . . . The holding at any time after January 1, 1949, of membership in the Communist Party of the United States. . . . (Section 109(j)).

This first subsection is so broad as to cover virtually anyone. And the third makes association a basis for warranting detention. And, on top of all this, the standard is not probable cause, but "reasonable ground to believe" that someone will "probably" act or conspire. Such broadscale repression is dangerous. It must be overturned.

Equally obnoxious—apart from the minimal essay at setting a constitutionally acceptable standard for determination of detention—are the offices established to detain persons. Preliminary hearing officers make the determination under section 104(d), and a detention review board reviews petitions of detainees under section 109. The judiciary affords little protection, only being available after the board has acted, and in habeas corpus proceedings.

Thus, the power to imprison is lodged in persons neither chosen for their legal skills nor immunized from political pressures by having lifetime appointments—that special prerequisite, together with salaries immune from reduction—which affords Federal judges freedom to act according to their consciences.

The only thing that can be said favorably about the Emergency Detention Act is that it has never been implemented. That is small solace, and certainly no justification for its continued existence. As President Truman stated in vetoing this act:

It is not enough to say that this (enforcement) probably would not be done. The mere fact that it could be done shows clearly how the bill would open a Pandora's box of opportunities for official condemnation of organizations and individuals for perfectly honest opinions. The basic error of these sections is that they move in the direction of suppressing opinion and belief.

I urge support for H.R. 234 to repeal the Emergency Detention Act.

Mr. KASTENMEIER. Madam Chairman, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Madam Chairman, the question before us is a simple one: Do we want to have concentration camps in America, or do we not?

If we vote for the Ichord amendment, we will be saying we want them. We will be saying we are not going to throw people in camps because of their color, religion, or national origin, but we may want to do it because of their political beliefs or the way they wear their hair.

I do not see this as much of an improvement. Continuation of concentration camps in any form is unjust, undemocratic, and—if I may coin a phrase—un-American. I urge that we repeal title II unconditionally, and leave concentration camps to those governments which require them.

I commend the gentleman from Hawaii (Mr. MATSUNAGA) for the excellent work he has done on this bill. I note that he has the support of such conservatives as Attorney General Mitchell and Governor Reagan, and I hope his position will prevail. It was a sad day for America when the Congress overrode President Truman's original veto of this bill, and it will be a sadder day if we do not avail ourselves of this opportunity to repeal it.

Certainly nothing we do here today in passage of the Matsunaga repeater affects the right of government to try and imprison persons for espionage—the bill does repeal the power of the Chief Executive to detain persons in camp on suspicion without trial—the threat of Prussian repression must cease.

Mr. KASTENMEIER. Madam Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Madam Chairman, I support the bill which has been filed by the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. KASTENMEIER. Madam Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Madam Chairman, I rise in support of H.R. 234.

We are today presented with the opportunity to do away with a vestige of some of the darkest days of American history.

The great individual rights guaranteed by our Constitution are always important to Americans. But the time when their importance is the greatest is when we are under pressure as a nation, when the forces of fear, hysteria, and darkness are trying to seize power. Twice in our recent history—during the Second World War and during the days of McCarthyism—we have succumbed to these forces and have to a considerable degree let civil liberties fall by the wayside.

One of these instances, the internment of Japanese Americans during World War II solely on the basis of their race, was accomplished without the aid of any statute. By Executive order, thousands of individuals who were neither charged with nor suspected of any crime were driven from their homes and imprisoned without trial.

During the McCarthy period, there was no use of detention camps, though many other grave breaches of constitutional rights were countenanced at the highest levels of government. However, the use of concentration camps for politically "dangerous" individuals was seriously considered, and the legislation whose repeal we are considering today resulted.

Title II of the Internal Security Act authorizes the establishment of "detention" camps and permits the Attorney General, during an internal security emergency, to detain any person if there is "reasonable ground" to believe that such person "probably" will engage in or conspire to commit acts of espionage or sabotage. Its clauses go to great lengths to recite the supposed constitutional bases for it, but there can be no disguising the fact that it represents a blatant attempt to undermine, ignore and destroy the constitutional rights on which this country's greatness is built.

The basic, incredible theory behind

title II, as nearly as I can make it out, is that although one accused of a crime is entitled to full constitutional safeguards, one who is detained without being accused of any crime is not.

Needless to say, I doubt the ability of this theory to withstand constitutional scrutiny. The Supreme Court handed down three decisions during World War II which many mistakenly feel upheld the legality of detention camps. But a reading of those cases makes clear that the Supreme Court never decided that issue. In *Hirabayashi* v. *United States*, 320 U.S. 81 (1943), the Supreme Court upheld the validity of a curfew order directed at specified ethnic groups and in *Korematsu* v. *United States*, 323 U.S. 214 (1944), the Court upheld the validity of an order excluding a citizen of Japanese ancestry from the area where he resided. Those decisions—in my opinion—are of little value today in view of the Supreme Court's subsequent incorporation of the Equal Protection Clause, which limits the States, within the perimeter of the fifth amendment's Due Process Clause, which limits the Federal Government, *e.g.*, *Bolling* v. *Sharpe*, 347 U.S. 497 (1954). And in the third case, *Ex parte Endo*, 323 U.S. 283 (1944), the Supreme Court held unanimously that the United States could not detain a citizen whom it conceded was loyal.

But what about those whom the United States suspects are disloyal? The three World War II cases do not answer. However, I find considerable guidance from a decision handed down during the Civil War, *Ex parte Milligan*, 4 Wall. 2 (1866). Milligan was accused during the Civil War of being a member of a secret political conspiracy dedicated to overthrow the Federal Government. He was a resident and a citizen of the State of Indiana where at some time during the Civil War and prior to detention actual fighting had taken place. Milligan was arrested and his case presented to the grand jury. It drafted no indictment. Milligan was tried before a military tribunal for conspiracy and was found guilty. Claiming that his detention was illegal, he petitioned for a writ of habeas corpus. The Supreme Court held that the Constitution in its entirety applies in full force in all cases, except where the pitch of battle does not permit the holding of court. Four Justices concurred, holding that the military tribunal did not have jurisdiction to try the defendant.

The Court said:

> The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government within the Constitution, has all the powers granted to it, which are necessary to preserve its existence. . . . 4 Wall. at 120–21.

The Court spelled out clearly what law generally governs such emergency situations:

> If it was dangerous, in the distracted condition of affairs, to leave Milligan unrestrained of his liberty, because he "conspired against the government, afforded aid and comfort to rebels, and incited the people to insurrection," the *law* said arrest him, confine him closely, render him powerless to do further mischief; and then present his case to the grand jury of the district, with proofs of his guilt, and, if indicted, try him according to the course of the common law. If this had been done, the Constitution would have been vindicated, the law of 1863 enforced, and the securities for personal liberty preserved and defended. 4 Wall. at 122 (italics in original).

The Court said that there was only one exception to its rule—that of impossibility; that is, situations calling for martial law. The Court made quite clear that the exception was a very limited one:

> Martial law cannot arise from a threatened invasion. The necessity must be actual and present; the invasion real, such as effectually closes the courts and deposes the civil administration.
>
> It follows, from what has been said on this subject that there are occasions when martial rule can be properly applied. If, in foreign invasion or civil war, the courts are actually closed, and it is impossible to administer criminal justice according to law, *then*, on the theatre of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority, thus overthrown, to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course. As necessity creates the rule, so it limits its duration; for, if this government is continued *after* the courts are reinstated, it is a gross usurpation of power. Martial rule can never exist where the courts are open, and in the proper and unobstructed exercise of their jurisdiction. It is also confined to the locality of actual war. Because, during the last Rebellion it could have been enforced in Virginia, where the national authority was overturned and the courts driven out, it does not follow that it should obtain in Indiana, where that authority was never disputed, and justice was always administered. And so in the case of a foreign invasion, martial rule may become a necessity in one state, when, in another, it would be mere lawless violence. 4 Wall. at 127 (italics in original.)

Title II of the Internal Security Act of 1950 does not square with Ex parte Milligan. In fact, title II falls so far short of the constitutional mark that no cosmetic amendments, such as those proposed by H.R. 820, can save it. The only solution is repeal. H.R. 820, the substitute proposed by Mr. ICHORD, would make a few relatively minor changes in this horrendous law, such as prohibiting the use of race as a detention criterion. But it is not merely the form or the precise wording of title II to which I object. Everything about it—its wording, its genesis, its purpose and its "protections"—is an affront to the concept of democratic government based upon respect for the rights of the individual.

The argument is made that title II has not been used at all, much less abused, and that we should keep it handy, "just in case." It is true that no formal use of title II has been made, but the fact that it is a powerful temptation to Government cannot be denied—the Mayday dragnet and its thousands of "nonarrests" made that painfully clear.

H.R. 234 not only repeals title II; taking cognizance of the fact that the wartime internment of the Japanese Americans was accomplished without the authority of any statute, it also provides that no citizen may be imprisoned or detained except pursuant to an act of Congress.

Title II was an outrage when it was conceived and enacted. It is an outrage today. I urge its repeal by the passage of H.R. 234.

Mr. KASTENMEIER. Madam Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Madam Chairman, I rise in support of H.R. 234, the Matsunaga resolution. At the same time, I recognize the sincerity of the gentleman from Missouri (Mr. ICHORD) and the logic of some of his arguments. This debate is but one chapter in the age-old history of civilized man's efforts to reconcile the often conflicting goals of individual liberty and the security of society.

It seems to me that the fundamental weakness in both title II of the Internal Security Act of 1950 and title II as it would be amended by H.R. 820, the so-called Ichord substitute, is this: That by attempting in advance to legislate so grave an exception to our fundamental constitutional liberties, H.R. 820 opens up a breach in the Bill of Rights of unknown scope.

The idea of incarcerating any citizen for an indefinite period of time without overt criminal action, without trial, and without even any evidence of criminal action is impossible to reconcile with the Bill of Rights. It is basic constitutional law that, even in time of war or civil insurrection, the Government may not constitutionally suspend due process of law, except where it is impossible to cope with the particular situation through the normal functioning of government.

The Government's failure to follow this principle during World War II led to the shameful incarceration of thousands of Americans of Japanese ancestry. It is no answer to say that we may prevent another similar outrage by putting in languange, as would H.R. 820, to the effect that no citizen shall be detained "on account of race, color, or ancestry." The implication is that it would be permissible to detain a citizen on other grounds, such as his political views, appearance, dress, or length of hair. We have seen all these used by the police in recent days and months as criteria for deciding which individuals among groups of innocent citizens would be seized and held in clear violation of their constitutional rights. Only last week, such an incident occurred, in my own State of Ohio, at Wright Air Force Base in Dayton, during Mr. Nixon's visit to dedicate a new Air Force museum. Apparently, military police decided to seize anyone with long hair or an unkempt appearance or wearing a peace emblem, regardless of their particular actions, and without even inquiring as to their background or their purpose in being present.

It is time we stopped giving congres-

sional sanction to this kind of conduct. The Emergency Detention Act of 1950 should be repealed. The Matsunaga resolution should be adopted.

Mr. KASTENMEIER. Madam Chairman, I yield 1 minute to the gentleman from Illinois (Mr. PUCINSKI).

Mr. RAILSBACK. Madam Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Madam Chairman, as one of the cosponsors of H.R. 234, I address the House today out of personal conviction, conscience, and what I sincerely believe to be a duty to my country.

Title II of Public Law 81–831, must be repealed. There is no nation in the world wise enough to endure that would employ the legal excesses permitted in this legislation.

In the past 2 weeks I toured the city of Belfast with my friend and colleague, Congressman MORGAN MURPHY. What we saw and what we heard deeply shocked us. The so-called internment or detention policy instituted by the British Government should be of concern to every man, woman, and child in the free world. For if this ancient country that established the principles of the Magna Carta and common law for the protection of the individual can so brutalize its own history in regard to these ancient legal traditions, what of the rest of the "democratic" nations of the world.

The indiscriminate rounding up of civilians and confining them without bail, without trial, without even the formality of a hearing of any sort, without access to legal counsel, without contact with family and friends is an outrage. At least 300 people are now "officially" designated as interned under this policy in Belfast, but Congressman MURPHY and I spoke to knowledgeable people who claimed the number may be as high as 2,000.

Madam Chairman, perhaps the world is a long way from accepting the legal precepts of habeas corpus and the presumption of innocence until guilt is proved. But we must not allow our own Nation to accept as a workable policy the notion that people may be arrested and detained on the suspicion that they may, perhaps, commit a crime.

That is no policy for the United States of America to adopt. It cannot be our policy in the future.

The past 10 years in this Nation have been filled with excesses and disturbances and outrage. Never, in all those turbulent years, have we had to resort to confining large numbers of individuals for weeks on end totally incomunicado.

The present excesses in Belfast have been compounded by the brutality and carelessness of the British Government in dealing with the situation. The differences between the opposing factions are farther than ever from resolution owing, in large measure, to the heavy-handed policies of the British Government that have totally ignored basic human rights.

Madam Chairman, our Nation made a tragic mistake in World War II when we confined hundreds of thousands of American citizens of Japanese ancestry in so-called detention camps. This error must never be allowed to be repeated. We are not so deficient of leadership in this country that we need to fear our own people, nor are we lacking the means to protect the population from the predatory attacks of groups who advocate the destruction of our system of government.

H.R. 234 is a significant milestone in our progress as a wise and mature nation. I urge my colleagues—whose memories surely recall the horrors of Nazi Germany and our own national dishonor in depriving law-abiding American citizens of their rights simply because of their ethnic heritage—to support this legislation before us today. Neither the President nor the Justice Department requires access to such unjust legal language to keep the domestic peace in the United States.

Detention camps must have no place in America's future, just as they deserve no place in any nation professing to believe in the dignity of the individual.

Mr. RAILSBACK. Madam Chairman, I yield back the balance of my time.

Mr. KASTENMEIER. Madam Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from Wisconsin has 6 minutes remaining to close debate.

Mr. KASTENMEIER. Madam Chairman, I yield such time as he may consume to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Madam Chairman, I rise in support of H.R. 234.

Madam Chairman, I rise in support of H.R. 234 as reported by the Committee on the Judiciary.

The concentration camps provided for by title II of the Internal Security Act embody a concept that is offensive and repugnant to the basic principles of human dignity and due process of law.

These principles are the heart of the Constitution of the United States.

There is no need for such camps, nor for the law which creates these camps, and there is no place for such a law in American jurisprudence.

I urge every Member to vote to repeal the law.

Mr. KASTENMEIER. Madam Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS), a member of the subcommittee.

Mr. CONYERS. Madam Chairman, how does a Member of this body rise to speak against detention centers? What arguments can we pose to each other as to whether or not we should allow this provision to remain on the books? The mere fact that we would debate this provision justifies the fear on the part of many of my constituents that black people could be victims of the same oppression as that of the Japanese Americans. Although I have repeatedly stated publicly that there are no detention centers in America, there are still citizens who refuse to accept that fact.

Since we have allegedly never used the law, let us take it off the books. I am indeed heartened by the fact that the leadership of both sides of the aisle has indicated that they will support without exception the provisions of H.R. 234 in its entirety.

So, maybe, we can still make America what it ought to be. Under the laws of this country we must allow every citizen to defend himself when charged with a crime, even if that crime is against the Government.

I am amazed at some of the arguments that I have heard during the debate on this matter. Opponents of this measure advocate concentration camps with the provision that we will allow detainees their civil rights. The insincerity of such a proposal is obvious. Those who would advocate allowing those detained in concentration camps fail to realize that while the detainees are allowed access to counsel that the Government is not obligated to list any charges against them. These advocates of concentration camps seek to insure those detained a speedy hearing, but fail to realize that a speedy hearing accomplishes little if a defendant and his counsel know nothing of the charges against them.

Well, democracies can succeed, and democracies can fail, but I think in our hands today and tomorrow will rest a decision that I am sure will be comforting to most Americans, the striking of title II providing for the elimination of detention centers.

Mr. KASTENMEIER. Madam Chairman, I yield the remainder of the time to the gentleman from Hawaii, (Mr. MATSUNAGA) the author of the bill.

The CHAIRMAN. The gentleman from Hawaii is recognized for 3 minutes.

Mr. MATSUNAGA. Madam Chairman, having heard a few surprising statements made by the opposition, I am somewhat apprehensive that what I am about to say may be misinterpreted by some of my colleagues as an appeal to their emotions, rather than to their considered good judgment. However, as a member of the only racial minority group ever to be incarcerated in American concentration camps, I am compelled by my deep and fervent convictions on the matter now before this House to relate certain personal experiences of mine, in the hope that they may contribute to a better understanding of the issues now before us.

As I stated earlier during the debate on the rule, one of the things which disturbed me most while I was serving at the battlefront in World War II, as an infantry officer of the 100th Infantry Battalion—which subsequently became the 1st Battalion of the 442d Regimental Combat Team—the so-called go-for-broke outfit, made famous by Van Johnson in the movie called "Go-for-Broke"—was the fact that while Americans of Japanese ancestry were fighting and dying in American uniform to preserve the American ideal, 110,000 Japanese Americans and their parents were being uprooted from their homes in the Western United States and incarcerated in American concentration camps, for no reason other than that they were Japanese faces.

Today, all historians, scholars, jurists, lawyers, and plain-thinking Americans agree that the imprisonment of Japanese-Americans in World War II marks the "most shameful chapter in American history." While it is almost unbelievable

that the Government of this great democracy would throw innocent Americans—pregnant women, infants, children, and the feeble included—into concentration camps, complete with barbed wire fences and armed guards, it is true that it did actually happen to Americans of Japanese ancestry.

It may seem even more incredible that freedom-loving Americans would permit the continuance of a law which provides for the establishment and maintenance of concentration camps in America. But the shocking truth is that this sad situation does exist in the form of title II of the Internal Security Act of 1950. While it is true that title II was not in existence at the time of the evacuation and internment of the Japanese Americans, it serves as a grim reminder of what Eugene Rostow, dean of the Yale Law School described as "our worst wartime mistake."

It is to remove this horrible reminder of the terrible blot on our Nation's reputation that 160 Members of this body joined in cosponsoring legislation to repeal title II of the Internal Security Act of 1950 and to prohibit the imprisonment of any person other than in accordance with laws passed by Congress.

In the 91st Congress a slightly different bill, designed to repeal the "Emergency Detention Act" and cosponsored by 130 Members of the House, was referred to the House Internal Security Committee. That bill was killed in that committee by a 4-to-4 tie vote, after lengthy and dragged-out hearings.

The bill introduced in this Congress—the 92d—contains additional provisions which effected a shift in its referral to the Committee on the Judiciary, which reported the bill out without a dissenting vote. The able gentleman from Wisconsin (Mr. KASTENMEIER), chairman of the subcommittee which exercised jurisdiction over the bill, and the distinguished gentleman from New York (Mr. CELLER), chairman of the full Committee on the Judiciary, deserve much credit for their cosponsorship and strong support of the measure.

The main thrust of this year's bill, H.R. 234, as it was last year, is aimed at the repeal of title II of the Internal Security Act of 1950, the so-called Emergency Detention Act.

Briefly, title II provides that upon the President's declaration that a state of "internal security emergency" exists in this country, the President, acting through the Attorney General, may apprehend and detain any person as to whom "there is a reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage and sabotage." Detention of a person is thus authorized not on the basis of an overt act committed in violation of law, but on the basis of mere suspicion that he may commit a crime.

Moreover, title II fails to provide for either a trial by jury or hearing before a judge. A preliminary hearing before an administrative hearing officer is substituted instead. The suspect is assumed to be guilty, contrary to his traditional right to a presumption of innocence. The accused is also denied the right of confrontation with his accusers and need not be made aware of the facts which led to his detention, for the Government is not required to produce any witnesses or evidence in support of its action against the detained.

There is no appeal from the decision of the administrative hearing officer to the courts, only to another administrative hearing body, a board consisting of members appointed by the President, who is also the prosecutor. The decision of this board on the question of emergency detention is final and nonappealable.

The elementary safeguards guaranteed by our Federal and State constitutions and our judicial practices to the most hardened of criminals would be denied to the most innocent of our citizens during declared emergencies under title II.

The gentleman from Missouri (Mr. ICHORD) has, with obvious delight, pointed to the fact that such libertarians as Senators HUMPHREY, Douglas of Illinois, and Lehman of New York, supported title II when it was offered as an amendment to the Internal Security Act of 1950. But the gentleman from Missouri (Mr. ICHORD) failed to mention the fact that all three of these Senators voted to sustain President Truman's veto of the bill.

And Senator HUMPHREY, incidentally, is now a cosponsor of a bill to repeal title II. The gentleman from Missouri (Mr. ICHORD) also failed to note that such conservatives as Senators Pat McCarran and KARL MUNDT vehemently opposed title II when it was offered as an amendment to the proposed Internal Security Act during Senate consideration of the measure in 1950. Senator McCarran, then chairman of the Senate Judiciary Committee, speaking against title II, branded it as "a concentration camp measure, pure and simple." Senator MUNDT characterized its authority as "establishing concentration camps into which people might be put without benefit of trial, but merely by executive fiat."

Despite such strong criticisms against the legislation, Congress passed the Emergency Detention Act in 1950. President Harry S. Truman promptly vetoed the measure with the admonition and warned:

> The bill would open a Pandora's box of opportunities for official condemnation of organizations and individuals for perfectly honest opinions. The basic error of these sections is that they move in the direction of suppressing opinion and belief.

However, the Congress overrode his veto in the then prevalent atmosphere of the Korean conflict, when being "soft on communism" was thought by many to be treasonable.

Pursuant to the enactment of the Internal Security Act of 1950, six detention camps were prepared and maintained by the Department of Justice from 1952 to 1958—two in Arizona, and one each in Pennsylvania, Florida, Oklahoma, and California.

Since 1958, Congress has refused to appropriate funds for their continued maintenance, and these camps have either been abandoned or converted to other uses. With these concentration camps no longer maintained as such, and with the hysteria of anticommunism of the early 1950's gone, title II was more or less forgotten.

About 3 years ago, however, rumors were rampant that the Government was again preparing detention camps, under the authority of the Emergency Detention Act, for dissidents, activists, militants, and others with whom those in control of the Government might disagree.

These wild rumors spread through the black ghettos, across the college and university campuses, and among war protesters. They were publicized by the underground press and given credence by some authors of books, magazine articles, and other publications.

The rumors reportedly are still being exploited by certain self-styled leaders of present-day movements to escalate confrontations and to foment unrest and violence.

Consequently, Deputy Attorney General Kleindienst, in a letter dated December 17, 1969, to Chairman CELLER of the House Judiciary Committee stated:

> The continuation of the Emergency Detention Act is extremely offensive to many Americans. In the judgment of this Department, the repeal of this legislation will allay the fears and suspicions—unfounded as they may be—of many of our citizens. This benefit outweighs any potential advantage which the act may provide in a time of internal security emergency.

At the lengthy hearings held last year by the House Internal Security Committee, Judge Walter B. Yeagley, then head of the Justice Department's Internal Security Division, echoed this position and testified that the Department favored repeal of the Emergency Detention Act because the statute has been a source of deep concern and irritation to many Americans. And Judge Yeagley's successor, Assistant Attorney General Robert C. Mardian, in testifying before House Judiciary Subcommittee No. 3, on March 18, 1971, stated:

> The Department of Justice is unequivocally in favor of repealing Title II of the Internal Security Act.

In the opinion of many lawyers, including former Justice of the Supreme Court Arthur Goldberg, who testified before the House Internal Security Committee last year, the provisions of title II on the emergency detention of a person under the stated conditions are clearly unconstitutional. They believe that the courts will invalidate title II when confronted with an appropriate case. However, since litigation on the merits may not be possible until title II has been invoked, and litigation must necessarily follow the possible imposition of grave injustices on innocent Americans, it seems that the responsibility rests with the Congress now to erase this repugnant law from the statute books before its potential injuries are inflicted on anyone.

In my humble opinion, the Emergency Detention Act of 1950 is nothing more and nothing less than a concentration

camp authorization law, and the simple but vital issue which we are called upon to decide today is:

Is there a place for concentration camps in America?

The answer is obviously "No," and by defeating the substitute bill, H.R. 820, and approving H.R. 234 without crippling amendments we can eliminate the specter of future American concentration camps.

Madam Chairman, I believe we can all agree that the turbulence of our times has engendered an unprecedented debate on the nature and future of the American way of life, as we have been accustomed to living it. The erosion of faith, among our youth and minority groups, in our institutions and the so-called establishment is shockingly evident in the increasing demand for change—by open dissension and demonstrations, frequently violent. If we are to return fully to peaceful means of resolving our problems and stem the rising tide of extremism, we need to eliminate those irritants in our existing system which give rise to extremism. The Emergency Detention Act is definitely one of those irritants. The Justice Department says we do not need it. Let us repeal it.

Mr. ALBERT. Will the gentleman yield?

Mr. MATSUNAGA. I would be most happy to yield to the distinguished Speaker of the House.

Mr. ALBERT. The record of the distinguished gentleman from Hawaii (Mr. MATSUNAGA) and of the Japanese Americans in World War II is well documented. I commend the gentleman for his leadership in the effort to repeal a law which has become a symbol of this country's tragic mistake in World War II.

Mr. MATSUNAGA. I thank the distinguished Speaker for his kind remarks and for his support.

Mr. JOHNSON of California. Madam Chairman, 29 years ago this country, confronted with the crisis of a global war, had the misfortune of resorting to the tactics of a totalitarian power and thus wrote one of the most disgraceful pages of its history. One would want to say, "It could never happen in the United States of America," but the bitter fact is that it did. The Army, empowered with a Presidential proclamation and fortified with an enabling act of Congress, uprooted 110,000 persons of Japanese ancestry and detained them in War Relocation Authority centers. For those American citizens who suffered the tragedy and humiliation of evacuation, these were no different than concentration camps.

The surprise attack on Pearl Harbor by the Japanese Navy momentarily placed the Government and people of the United States in a state of total shock and confusion. With returning calm, our leadership sought ways and means of overcoming this Nation's ill-preparedness; and a determined few racists, in and out of all levels of government and from all walks of life, sensed a golden opportunity to rid their communities of persons of Japanese ancestry. By means of half-truths and outright lies, they succeeded in the name of the war effort, in arousing public hate and prejudice against the American of Japanese ancestry. Although fear of invasion had subsided and preparations were underway to take the war to the enemy, the clamor for prompt and total evacuation of both alien and citizen Japanese from the west coast did not subside but grew louder and more demanding. Once the campaign of hate took hold, there was to be no stopping or turning back for the duration of World War II. Everyone, including those in the high places of our legislative, executive, and judiciary branches, was without immunity against the poisoning of the mind and was soon swept into the mainstream of wartime hysteria. The bigots were in the small minority but the great majority condoned and gave encouragement by their utter silence.

Evacuation and confinement were tragic and irreparable events in themselves, but the greater tragedy lay in the acceptance of the totalitarian concept of judging one's guilt or inferring one's disloyalty because of race, creed, color, class or national origin. We may want to believe and say that the evacuation of our Japanese people was dictated by "military necessity" as was claimed, or was required to safeguard their persons and property from external harm, but the truth of the fact is otherwise. These people had learned to live with bigotry and prejudice of individuals, but their industry, patience, lawfulness, patriotism and other virtues inherent to them were no match to the military might of their own Government. Bewilderedly they submitted to the military order for mass evacuation and detention but proudly gave their pledge, God willing, to somehow disprove and discredit their accusers and adversaries and remove for all times the cruel brand of disloyalty or questionable loyalty to the country of their birth or adoption. Not one act of sabotage or espionage was brought to light by the FBI, military intelligence, and other law enforcement authorities in spite of the intensive investigations and counter-espionage activities. Their youths went forth from their confinement centers to serve their country at war and earned the highest respect and praise of their fellows in arms. They proved their merits again in the Korean war and in the current involvement in Vietnam. If patriotism and belonging are to be founded on "blood and guts," they have earned theirs selflessly and at the price of supreme sacrifice.

My own State of California must shoulder much of the blame for this shameful wartime hysteria and bigotry, but I am proud to say that the Government and the people of California have responded admirably since World War II to the irredeemable injustice imposed upon their fellow Californians and other evacuees of Japanese ancestry from the neighboring Western States. Today, perhaps no group is more respected and welcome as neighbors and friends than our Japanese Americans. In the face of unbelievable hardship and obstacles, they strove to be "Better Americans in a Greater America," the motto of their Japanese Citizens League. They have taught us the true meaning of loyalty to one's country, good will toward their fellow man, and democracy at it best.

Mindful of their own humiliating and heartbreaking experiences, Japanese American Citizens League, in voicing the hearts and minds of all persons of Japanese ancestry of America, has resolved that never again must innocent person or groups of persons be subjected to forcible detention and confinement without due process of the law and never again shall guilt or innocence, disloyalty or loyalty, be dounded on or because of race, color, creed, national origin or difference in political belief.

Accordingly, the league has brought to the attention of their fellow Americans the inherent danger underlying the provisions of title II of the Internal Security Act of 1950. The act attempts to give the President, through the Attorney General, the power to detain "each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or of sabotage." The tragic evacuation of persons of Japanese ancestry was carried out at the outset of World War II under the ruse of "military necessity." Under the Internal Security Act of 1950, the same kind of irreparable detention of innocent persons may be accomplished by the Attorney General, during the proclaimed period of "internal security emergency," on the pretense that "there is reasonable ground to believe that such person probably will" commit or conspire to commit an act against the internal security of this country. The next step may lead to initiation of thought controls and rules of a police state.

The gravest danger lies in the possible extremism of thought and action by those delegated with the power to adopt and administer national policies. In time of stress, if enough pressure was brought to bear at the right place by the wrong people, bigotry, hate and witch hunt may become the accepted way, and with it, innocent persons may become unwilling victims of forcible detention in violation of our basic principle of equal protection and due process under the law. Internal Security Act of 1950 predicates guilt or disloyalty of the person by class or association and as such is a bad law and has no place in our statute books.

Many city and county governments, civic and community organizations and, above all, the citizens of the great State of California, individually and through their duly elected representatives to the State Legislature and in the person of Governor Ronald Reagan, have enthusiastically endorsed and proclaimed their support for the repeal of title II of the Internal Security Act of 1950.

Until recent past, our Japanese Americans strove to gain legal equality and justice rightfully theirs; they now seek and ask for equality and justice under the law for all Americans.

These thoughts of mine are shared by Japanese Americans of my own constituency and elsewhere and by their many

respecting friends as is reflected by the volume of messages and resolutions I have received calling for the repeal of title II of the Internal Security Act of 1950. No higher endorsement for their effort has come forth than from President Richard Nixon himself. The Senate has responded to this just cause; let the House of Representatives react accordingly.

Thank you.

Mr. BEVIL. Madam Chairman, we have before us two suggested changes in the 1950 Internal Security Act. Let us examine them.

One is proposed by a hastily assigned Judiciary Subcommittee that studied the 1950 Internal Security Act for just a few short hours before arriving at the conclusion that the Act's title II which deals with potential subversives and saboteurs in wartime should be expunged.

The other proposal is that title II be retained but revised so that in no way could it be aimed, even in time of crisis, at any minority group and that any person detained under it in time of crisis be guaranteed due process of law. That is something of an oversimplification but essentially describes the heart of the revision.

Now this proposal is advanced by three men—Congressmen ICHORD, ASHBROOK, and SCHERLE—who are knowledgeable, educated experts in the Internal Security field, particularly on title II of the Internal Security Act.

Their proposal was not made after a mere cursory study accomplished in a matter of hours. It was advanced after 2 years of study by the House Committee on Internal Security. The Honorable RICHARD H. ICHORD of Missouri is chairman of that committee. The Honorable JOHN M. ASHBROOK of Ohio is the committee's ranking Republican member. The Honorable WILLIAM J. SCHERLE was a very active member of that committee during its thorough and extensive hearings on title II of the Internal Security Act.

As I have stated, these men are the leading authorities on this matter. During their 2-year investigation of title II they attended 11 days of public hearings in addition to markup sessions, heard more than 35 witnesses and examined more than 230 statements submitted by witnesses. The Internal Security's documentation of those hearings runs to almost 1,000 pages.

Madam Chairman, the gentlemen from Missouri, Ohio, and Iowa know what they are talking about in the field of the internal security of this country. The subcommittee, well intentioned as it no doubt was, simply did not have time to examine this matter as thoroughly as did Mr. ICHORD, Mr. ASHBROOK, and Mr. SCHERLE.

Madam Chairman, I suggest that this matter is of far too great import for it to be decided on a recommendation made after only superficial study.

There is one common misconception about the entire matter, Madam Chairman. This is that revocation of title II, as proposed by the subcommittee, would simply restore to the President the powers enjoyed by President Roosevelt when he ordered the roundup of the Japanese-Americans.

That is not so. Under one dangerous subcommittee amendment, the President would be stripped of any power to deal with potential saboteurs and spies in time of war-related crisis. This country would be officially powerless to deal with espionage.

Title II, if revised in accordance with H.R. 820, could be invoked only—and I quote—"in time of war, invasion or insurrection in aid of a foreign enemy." It has ample guarantees of civil liberties in its provision for due process of law rights for any person detained under the act.

And, as I said, it was written by experts in the field who know what they are talking about.

Madam Chairman, I say we need this legislation on the books as an important tool that we hope we never have to use.

Mr. PELLY. Madam Chairman, I rise in support of H.R. 234, to repeal the Emergency Detention Act and eliminate the specter of American concentration camps.

We do no more than look back at the grave injustices done to the many thousands of loyal Japanese American citizens during World War II to realize that this must not be allowed to occur in our free society again. Those of us from the west coast, particularly, remember the incarceration without due process of law of Japanese Americans.

Madam Chairman, I support the repeal of the Emergency Detention Act and oppose its mere amendment.

Mr. BURTON. Madam Chairman, I support H.R. 234 and commend my distinguished colleague from Wisconsin (Mr. KASTENMEIER) for his leadership and demonstrated legislative skill in managing this vital legislation.

H.R. 234 is a long-overdue repeal of the Emergency Detention Act and a measure which I support and which I have coauthored.

I should also like to commend the dean of the California delegation, CHET HOLIFIELD, and my distinguished colleague from Hawaii, SPARK MATSUNAGA, for their continued and tireless efforts to eliminate the provision on detention camps which have no place in a free and democratic society.

When we enact this legislation, we will be removing a stain from the fabric of our democratic society which we have already too long endured.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of section 4001 of title 18, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "except that he may not operate any facility, prison, farm, industry, or camp for the imprisonment or detention of any citizen of the United States except in conformity with the procedures specified in this title.".

SEC. 2. Subsection (a) of section 4082 of title 18, United States Code, is amended by striking out the period at the end thereof and by inserting in lieu thereof a comma and the following: "except that no person shall be committed to imprisonment or otherwise detained except in conformity with the provisions of this title.".

SEC. 3. (a) Title II of the Internal Security Act of 1950 (50 U.S.C. 811–826) is hereby repealed.

(b) Section 8312 (c)(1)(C) of title 5, United States Code, is amended by striking out ", 822 (conspiracy or evasion of apprehension during internal security emergency), or 823 (aiding evasion or apprehension during internal security emergency)".

(c) Clause (4) of section 3505(b) of title 38, United States Code, is amended to read as follows: "(4) in section 4 of the Internal Security Act of 1950.".

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

Mr. POFF. Madam Chairman, reserving the right to object, and I shall not object—on the contrary I concur—may I inquire of the distinguished gentleman from Wisconsin if it will be his purpose, after the Chairman has ruled on his request, to move that the Committee do now rise and resume further consideration of the bill on tomorrow?

Mr. KASTENMEIER. The gentleman from Virginia is correct.

Mr. POFF. Madam Chairman, I withdraw my reservation of objection.

Mr. ICHORD. Madam Chairman, reserving the right to object, we are in a rather unusual parliamentary situation.

The rule does provide that it would be in order to offer H.R. 820 as a substitute for H.R. 234. Does the gentleman intend to move that the Committee rise before I offer the amendment that I have pending at the desk? I would like to know what the gentleman's intention is.

Mr. KASTENMEIER. If I may respond to my friend, the gentleman from Missouri, that is my intention and I would assume that the gentleman, as the first order of business tomorrow when we resume, would offer his bill as a substitute.

Mr. ICHORD. Madam Chairman, with that understanding, I withdraw my reservation of objection.

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

There was no objection.

Mr. KASTENMEIER. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mrs. GRIFFITHS, 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. 234), to amend title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be committed for detention or imprisonment in any facility of the U.S. Government except in conformity with the provisions of title 18, had come to no resolution thereon.

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.

GENERAL LEAVE TO REVISE AND EXTEND

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend and revise their remarks during general debate on H.R. 234 and H.R. 820, an amendment in the nature of a substitute.

Mr. ICHORD. Mr. Speaker, reserving the right to object, I observe that the gentleman did not in that unanimous-consent request make the specific point of including extraneous material. Therefore, I will not object, as long as I have the understanding that extraneous material, particularly newspaper editorials, radio editorials, television editorials, and editorials which may or may not appear on the front page will not be included in the RECORD. I understand the gentleman did not make any request relative to extraneous material.

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

Mr. ICHORD. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. My request did not include materials of that sort.

Mr. ICHORD. Then I do not object.

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

There was no objection.

GENERAL LEAVE TO EXTEND

Mr. KASTENMEIR. Mr. Speaker, I make the same request, asking 5 legislative days for all Members to revise and extend their remarks on the bills to which I have referred.

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

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 1, 1971.

The Honorable SPEAKER,
House of Representatives.

DEAR SIR: On this date, I have been served with a subpoena duces tecum by the U.S. Attorney in Washington, D.C., that was issued by the U.S. District Court for the District of Columbia. This subpoena is in connection with The United States vs. In re possible violations 1341, 602, 371, Title 18 U.S. Code.

The subpoena commands me to appear in the said U.S. District Court for the District of Columbia on the 16th day of September 1971 and requests certain House records of former staff members and employees of Congressman James M. Collins (3rd Congressional District, Texas) that are outlined in the subpoena itself, which is attached hereto.

House Resolution 9 of January 21, 1971, and the rules and practices of the House of Representatives indicate that no official of the House, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS, *Clerk,*
House of Representatives,
By BENJAMIN J. GUTHRIE.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

[In the U.S. District Court for the District of Columbia]

In re possible violations 1341, 602, 371, Title 18 U.S. Code

Report to United States District Court House between 3d Street and John Marshall Place and on Constitution Avenue NW., Room 3800, Washington, D.C.

The President of the United States to Honorable W. Pat Jennings, Clerk, or authorized representative, House of Representatives, Washington, D.C. and bring with you: All original official payroll and personnel records relating to the following former staff members and employees of the Honorable James Collins, M.C. (3d Cong. Dist., Texas) from August 1968 until April 1970 including Clerk-hire forms, personnel files, address cards, payroll ledgers, correspondence relating to payroll matters.

You are hereby commanded to attend before the Grand Jury of said Court on Thursday, the 16th day of September, 1971, at 10 o'clock A.M., to testify on behalf of the United States, and not depart the Court without leave of the Court or District Attorney.

Witness: The Honorable George L. Hart, Acting Chief Judge of said court, this 1st day of September, 1971.

Gene S. Anderson, Assistant U.S. Attorney, Attorney for the United States; phone: 426-7043.

JAMES F. DAVEY, *Clerk.*
By EULALIA M. KOESTER, *Deputy Clerk.*

AUTHORIZING W. PAT JENNINGS, CLERK OF THE HOUSE, TO RESPOND TO A SUBPENA DUCES TECUM ISSUED BY THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Mr. BOGGS. Mr. Speaker, I offer a privileged resolution (H. Res. 591) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 591

Whereas in the investigation of possible violations of Title 18, United States Code sections 1341, 602 and 371, a subpena duces tecum was issued by the United States District Court for the District of Columbia and addressed to W. Pat Jennings, Clerk of the House of Representatives, directing him or his authorized representative to appear before the grand jury of said court on September 16th, 1971, at 10:00 antemeridian and to bring with him certain and sundry papers in the possession and under control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That W. Pat Jennings, Clerk of the House, or his authorized representative, be authorized to appear at the place and before the grand jury named in the subpena duces tecum before-mentioned, but shall not take with him any papers or documents on file in his office or under his control or in possession of the House of Representatives; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the papers and documents called for in the subpena duces tecum, then the court, through any of its officers or agents, be authorized to attend with all proper parties to the proceeding, and then always at any place under the orders and control of this House, and take copies of any documents or papers; and the Clerk is authorized to supply certified copies of such documents or papers in possession or control of said Clerk that the court has found to be material and relevant and which the court or other proper officer thereof shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; and be it further

Resolved, That as a respectful answer to the subpena a copy of these resolutions be submitted to the said court.

The SPEAKER. Is there objection to agreeing to the resolution?

Mr. HALL. Mr. Speaker, reserving the right to object, a parliamentary inquiry: Has the party to these proceedings been notified that this action would be taken in the House at this time?

The SPEAKER. The Chair understands he has.

Mr. HALL. Mr. Speaker, I withdraw my reservation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FEDERAL FACILITIES IN AREAS OF LOW POPULATION DENSITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Agriculture:

To the Congress of the United States:

I am transmitting today the first annual report on the location of new Federal facilities in areas of low population density.

This first report describes the beginnings of an organized effort to place more Government facilities and activities in rural areas as required by the Agricultural Act of 1970. I believe it will

serve as a bench mark demonstrating this administration's commitment to a healthy and balanced revitalization of rural America.

During the period covered by this report, more than 60% of all Federal workers placed in newly located activities were employed in areas of low population density. I would emphasize, however, that the location of Federal facilities and activities in rural areas is only one part of our comprehensive program for rural development. This overall program—which also includes a variety of efforts to provide more financial assistance and better Government services to rural communities—has had a considerable impact for good in many locales, expanding employment and training opportunities, stimulating industrial and other economic growth, and generally improving the social environment.

The potential impact of our relocation policies was dramatized recently when a new Internal Revenue Service facility was located in the low population density area of Holtsville, New York. That single facility will provide new jobs for some 2000 permanent, full-time employees and for another 2000 temporary employees as well. We expect that such examples will multiply rapidly in the future.

All of the major departments and agencies of the executive branch are now giving priority consideration to locating new facilities in areas of low population density. The heads of these agencies are committed to establishing a sound balance between rural and urban America—a commitment which they share with the Congress. This report documents many of the ways in which this commitment has recently been carried out; it provides a detailed tabulation of all new offices and other facilities located during the last seven months of Fiscal Year 1971 as well as a summary of the highlights of that tabulation.

Obviously, the social and economic impact on the host community cannot be the *only* consideration in placing Federal facilities. Each facility has a specific job to do and it should be located so that it can do that job in an effective manner. But the criterion of effective performance is usually met by a variety of sites—urban and rural—and it is essential that Government officials appreciate the implications of their siting decisions on the growth patterns of our country.

Of course, rural communities are not the only areas that can benefit from the stimulus of new Government activities. The location of Federal facilities can also make a major difference in development patterns within metropolitan areas—revitalizing impoverished inner city neighborhoods, for example, or stimulating the growth of new communities or satellite cities on the periphery of our urban centers. For example, a new Geological Survey facility recently located at Reston, Virginia will provide some 2600 fulltime jobs. Reston is a relatively new community—but it is only 18 miles from Washington, D.C.

The philosophy of this administration concerning the location of Federal facilities was expressed in Executive Order 11512 in February of 1970:

> Consideration shall be given in the selection of sites for Federal facilities to the need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in that area. . . .

We have since moved to carry out this philosophy through a wide variety of actions. The Agricultural Act of 1970 is serving as a further stimulus in this same direction. I am confident that the result of all of these efforts will be a balanced pattern of national growth which will serve the best interests of all Americans.

RICHARD NIXON.

THE WHITE HOUSE, *September 13, 1971.*

THE 10-PERCENT ADDITIONAL IMPORT DUTY

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

Mr. GAYDOS. Mr. Speaker, since the imposition of the supplemental duty of 10 percent on about half of our imports went into effect many complaints have been aired by other countries. No one knows today precisely what the effect will be across the board.

One reason the effects are difficult to forecast lies in the variable impact of the new impost on different countries. Since duty-free goods and those that are under import quota limitations are not subject to the additional levy, the impact on particular countries depends on the particular products they export to the United States.

Mr. Speaker, some much needed light has been thrown on this subject in a brief study made by O. R. Strackbein, president of the Nation-Wide Committee on Import-Export Policy.

His analysis shows the very uneven impact of the new duty on different countries. This unevenness impairs the equity of the levy and its value as an instrument to regulate the import competition that works great hardship on many of our industries. What is needed in its place is early action on import legislation such as was passed by this body in the last Congress. The imposition of the 10-percent additional duty does not in any way remove the need for broad legislation as soon as possible.

I offer Mr. Strackbein's analysis at this point in the RECORD, and commend it to the attention of all Members:

THE 10-PERCENT ADDITIONAL IMPORT DUTY

(By O. R. Strackbein)

The assessment of an additional duty on dutiable and nonquota imports as provided by the Presidential proclamation of August 15, 1971 has stirred a live interest in the comparative effect of the levy on the different countries from which our imports come.

The incidence is quite uneven, because of the different duty levels applicable to different products and the specialization of various countries in particular products. Another source of uneven effects arises from the duty reductions since 1934.

Some countries, for example, ship to us most heavily certain products, such as coffee, on which we have no duty at all. The 10% additional duty does not apply to duty-free items. Therefore such countries will find their principal products unaffected by the new impost.

In the case of Canada, for example, her two principal exports to this country escape the new duty entirely, namely, automobiles and newsprint (the paper on which newspapers are printed). These are both heavy-volume imports by us and Canada supplies the lion's share of each. In the first half of 1971 no less than 69% of our total imports of $6.33 billion from Canada was free of duty. Beyond that, our duty on dutiable goods coming from Canada, or the remaining 30% carried an average duty of only 5%. If the duty we collected on total imports from Canada in the first half of 1971 is averaged over all imports from there, free and dutiable alike, the burden is only 1½% of the total value ($117.7 million in duty collected on imports of $6.33 billion).

In the case of Brazil and Colombia we encounter similar low duties because a high percentage of our imports from those countries is free of duty. In the case of Brazil 62% of our total imports in the first half of 1971 were free of duty, while the average duty on the remaining 38% of our imports which was dutiable, was 9.6%. We collected only $13.1 million in duties on total imports (January through June, 1971) on imports of $359.5 million or 3.6%. The principal import was coffee.

Colombia during the same period enjoyed a 79% duty-free entry into our market. We collected $1.9 million in duties on total imports of $119.8 million or 1.6%. On dutiable items of a value of $24.9 million the collected duty of $1.9 million represented an average duty of 7.5%. Again, the principal import was coffee.

The peculiarity of the new levy is well illustrated by our imports from Venezuela. Of total imports of $615 million in the first half of 1971, 77% were dutiable and only 23% free of duty, or almost the reverse of our imports from Brazil and Colombia. Yet the total duty collected on imports from Venezuela averaged only 3.04% on the dutiable imports. If the duty collection of $14.5 million is averaged over the total imports it comes to only 2.3%.

The explanation lies in the character of our imports from these countries. Coffee, which is free of duty, as already noted is the principal import from both Brazil and Colombia, while petroleum is the principal import from Venezuela. The latter is dutiable, but the rate of duty is very low. Therefore the average rate of duty on Venezuela dutiable imports is low—only 3.04%.

Because of the nature of the Presidential proclamation another peculiarity is encountered. The 10% additional impost also does not apply to petroleum imports because these are subject to a quota limitation. Therefore Venezuela escapes the additional 10% impost on most of her exports to this country.

The country upon which our import duty falls most heavily in Latin America is Uruguay. Not only are most of our imports from there dutiable (86%) but the rate is relatively high. Our average duty on dutiable imports from Uruguay was 25.75% in the first half of 1971. Even if the duty is spread out over our total imports from that country the average rate is still over 22%. The principal import from Uruguay is wool.

Mexico also ships us goods that are predominantly dutiable (80%) and the average duty was 11.1% in the first half of 1971, or appreciably above our general average of 9.04% on all dutiable items from all sources, and yet still higher than the average level of 7.92 on our imports from all the 20 Latin American republics.

Countries from which we import heavily of sugar and meat are relieved of the 10% added duty because these products are under our import quota. Heavy beneficiaries are the Dominican Republic and the Philippines with respect to sugar, and Australia and New Zealand with respect to meat.

Other peculiarities appear as the application of the new impost is examined.

Japan, which is second only to Canada as the source of our heaviest import total, is in strong contrast to Canada in the percentage of our imports subject to duty. Nearly all our imports from Japan are dutiable, or 97% compared with 30% for Canada. The average duty on Japanese imports is, however, only a shade above our average duty on worldwide imports—or 9.74% for Japan against 9.07% for the whole world.

However, imports of cotton textiles are free from the new impost because they are under a quota limitation. Such textiles are an important import item from Japan. The impost does, however, apply to man-made textile fibers and apparel. Imports of these items from Japan in recent times have outstripped cotton textile imports by a margin of more than 2 to 1.

Automobile imports from Japan, another important item of import from Japan, will pay 6½% in place of 10% additional because of another peculiarity of the provisions of the Presidential proclamation. The current rate is 3½% while the 1934 rate was 10%, and the new impost must not, if added to the current rate, exceed the 1934 rate. Canada is an exception. Our automotive trade agreement of 1964 with Canada placed automobiles and original parts on the free list when imported from Canada, but not when imported from other sources. Automobile imports, as just noted, are an important import item from Japan. So also is steel. On the latter product the new import levy of 10% will be applied because, while steel exports to this country have been restricted by an arrangement with leading export countries, the limitation is not regarded as an import quota and therefore does not qualify as an exempt product.

The net result is that most of the imports from Japan are subject to the 10% additional levy.

Less fortunate than Japan are Hong Kong, Taiwan and South Korea from the combination of which we imported a little over $1 billion in the first half of 1971. From 95–98% of our imports from these sources were dutiable, much the same as in the case of Japan. However, whereas the average duty on dutiable items in our imports from Japan was 9.07%, the average rate on dutiable imports from the Republic of Korea was 23.8%, from Hong Kong, 18.1% and from Taiwan (Republic of China), 19.6%, or double the rate on imports from Japan. Cotton textile imports from these three sources are, of course, free of the impost but other imports from these three areas far exceed cotton textiles.

The communist controlled countries will not be affected (Poland and Yugoslavia excepted) because the 1934 rate of duty still applies to imports from these countries. The two exceptions will feel the impost because the duty reductions made in trade agreements since 1934 have been extended to both Poland and Yugoslavia. The average rates of duty (1st half 1971) on imports from the other communist countries were, East Germany, 37.7%; Czechoslovakia, 26.0%; Hungary, 17.5%; U.S.S.R., 20.5%; Romania, 30.2%; Bulgaria, 21.5%. On imports from Yugoslavia, which benefits from our duty reductions since 1934, the average was much lower or 9.6% and on Polish imports still lower, or 6.7% (both beneficiaries of the Most-Favored-Nation Clause). Nearly all the imports from these two countries are on the dutiable list. Total imports in the first 6 mos of 1971 were, however, only a little over $100 million from the two countries combined.

Imports from Europe enjoy moderate duty rates coming into this country but the great predominence consist of dutiable items, namely, 87% in the first half of 1971. The average rate on dutiable items was 8.6%, or distinctly lower than the average on imports from Japan (9.74%).

The Common Market Countries (European Economic Community or E.E.C.) paid an average duty of 8.11%. The E.F.T.A. (European Free Trade Association) average was a little higher or 9.06%.

Europe is the source of heavy imports of automobiles, and, unlike Canada, must pay the additional impost, but not the full 10%, as already noted with respect to such imports from Japan. Only 6½% will be levied. None of the quota items to which the 10% does not apply come in heavy volumes from Europe. Cotton textiles, while imported from several European sources, do not reach high volume. The same may be said of dairy products. Very little meat or petroleum comes from Europe and no raw cotton, wheat or sugar, worthy of note—all items that are free of the additional levy because of quota limitations on imports.

Therefore the great bulk of imports from Europe are subject to the levy. However, since we have no value-added taxes, no border taxes and no export rebates of the kind that are common in the E.E.C. countries, the 10% additional levy we impose may act roughly as an offset or substantial offset against such Common Market practices.

As for the African countries not much impact should be felt by them since 79% of our imports from them are free of duty. The duty on dutiable items averaged only 6.30% in the first half of 1971. The total duty collected on *total* imports from the 50 odd African countries was only 1.3%.

However, once more, the incidence of our duty varied widely from country to country. From a high average duty on dutiable items of 36.9% on our imports from Rwanda and 33.1% on our imports from Upper Volta, to the low levels of 1.4% on imports from the Malagasy Republic and 3.5% on imports from Ghana, most of the rates were very moderate. Our leading source of imports were from the Republic of South Africa ($149 million in the six-month period, 1971) and the average duty was relatively high, or 9.1%. Other leading sources of African imports were Ghana, the Ivory Coast, Nigeria, Angola, Ethiopia, Liberia, Uganda and the Malagasy Republic. The average rate of duty on dutiable items was low, mostly from 3 to 5%. Raw foodstuffs and minerals were the principal imports.

This brief review is sufficient to underline the inequity of the new assessment even though in a strictly mathematical sense it is nondiscriminatory. The 10% rate is applicable to all countries without exception if the products they export to us do not fall into one or more of the exceptions. Also, the exceptions are applied equally to all countries that ship us products that qualify as exceptions.

De facto, however, the effect is very uneven, as we have seen. Moreover, the lower the present rates the harder may be the impact. For example, if the current rate is 20% and the 1934 rate was 30%, or higher, the added tax will bring the rate back to 30%, but no higher. This represents an increase of 50% in the duty.

If the current rate is 5% and the 1934 rate was 15% or over, the new rate will go to 15% (5% plus 10%) and the increase will be 200%.

The new impost may therefore cause upsets where none is expected and may create little disturbance where it appears most likely on the surface. Much depends on the comparitive competitive level of each country exporting to us.

CONCLUSION

The imposition of the new duty is justifiable only as a stopgap and not as a permanent regimen. New legislation designed for more equitable treatment of the countries exporting to us, and tailored to meet the real import problems confronting many industries, is urgent, and should be shaped for early action to take the place of the new inequitable impost.

MR. A. M. GRANT CELEBRATING 101ST BIRTHDAY

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

Mr. HENDERSON. Mr. Speaker, a constituent of mine, Mr. A. M. Grant, of Sneads Ferry, N.C., is today celebrating his 101st birthday. A remarkable man, Mr. Grant is held in highest regard and esteem by all who know him.

Last year, on the occasion of the celebration of his 100th birthday, his son-in-law, Rev. Paul L. Merritts, currently pastor of the Georgetown Baptist Church here in Washington, delivered a birthday sermon in honor of his father-in-law in the Salem Baptist Church of Snead's Ferry, N.C. In his remarks, Reverend Merritts recalls many facets of older days and times and his words call back to our minds many thoughts worth remembering. The sermon delivered by Mr. Merritts on this occasion follows:

SERMON DELIVERED BY MR. PAUL L. MERRITTS

I consider this a very special honor to speak from this pulpit again after these years. This is also a rare privilege few ministers ever enjoy, to participate in a service in celebrating the hundredth birthday of a relative, in fact any relationship to a centenarian, even to being acquainted. But we the family do not lay all claim to him. He is also your Mr. Gus, your first centenarian, and we want to share him with you all. I would like to be one of your next centenarians. I am to deliver a sermon and they say a good sermon should have three points, so I shall arrange my remarks under three headings: Reminiscent, progress, and stability. A strange combination of ideas, but you will see how they relate to each other, as we proceed. One point, the third, will have to be religious as a discourse without doctrine is but a lecture and I am obligated to deliver a sermon, this being a church.

The first is reminiscent of long ago—April 9, 1865, the struggle in civil war came to an end, a struggle in which it was being decided if we were to be one nation or two. General Robert E. Lee, Commander of the armies of the South, surrendered to General Ulysses S. Grant, Commander of the armies of the North. It was early enough in the spring for the men to return to their farms and start a crop for that year. We surmise that they dropped everything where they were and headed home as quickly as possible, that is, those who were fortunate enough to be alive and able and had a way. Many likely had to walk and some probably hobbled or even crawled in their desperation to get home again, and be with their loved ones.

A young courier, lucky enough to have his own horse, which he used in carrying messages in the service of his southland, was glad to straddle his mount and ride off to his log cabin home, wife and small chil-

dren. The oldest boy, Jim now seven, was only two when South Carolina seceded and the war was starting. The courier had possibly been home on occasions when convenient as he traveled from place to place, to replenish the wood pile and do other chores to provide for his little family. Now he could plow and plant his clearings, peace having returned to the land. The sound of musket was heard no more, except an occasional shot by someone hunting squirrels, and the fear of attack from the enemy was gone. Now to settle down to a normal country life in pursuit of a livelihood and happiness. He probably had a feeling of satisfaction in having done a good job. Though his side had lost, they had won a great deal.

Five summers later, the year General Lee died, when memories of war had faded, and those awful experiences seemed but almost forgotten nightmares, a little better footing in life was attained. The usual shift in fall weather had taken place, and the mulletts were running on the beach not far away, and another son was born. That little family in the log cabin, warmed only by a fireplace and lighted only by a candle, that night in September, little suspected that that little life that came into the world would still be alive a century later to celebrate his hundredth birthday, not far from that very spot.

That light that lighted that first night was a candle of tallow carried from room to room as needed, that is, if there was more than one room. His first bath was in water toted from a well dug in the yard near the house and heated in a cast iron kettle hung in the fireplace. Food was cooked in the same way, and bread baked in a spider, a three-legged cast iron pan placed on the hot coals and often covered with hot coals to hurry the baking. They named the baby Augustus Merrimon, probably after someone the courier had met or known during his travels in the war.

Those were the good old days but it was a hard life as well. It took lively stepping to till an acre of land in a day with one mule. Travel was by horseback or by mule and cart. Transportation from a distance was by water which was accessible not too far away. The creeks and sound provided a good supplement of food to the little raised on the farm but it took much effort to obtain it. An acre did well to yield 20 bushels of grain and much of it was used to feed the stock. One rarely ever got more than 30 miles from home and it usually took a couple of days to make the trip. Clean living and habits, wholesome food, and little pollution along with home remedies contributed to good health. It was really the "survival of the fittest" theory in operation. The hard work of clearing land for an increasing family also supplied fuel for cooking and heating.

In just a few years a new house was built, this time with lumber rather than logs. The timbers had to be hewed by hand and the boards smoothed with a hand plane. It must have been an especially great day for the boys when they moved into the new home. still heated by fireplace and lighted by candle. That same house, though remodled some, is still there. It wasn't until some years later that kerosene lamps were available and coal-oil could be purchased. Also, a cast iron stove was installed in the kitchen to cook on. Much of the work around home had to be done by mother and the boys as the courier was usually riding herd on his cattle or off somewhere trading or bartering on some deal that would net him some cash hard to be obtained in any other way. He was ingenious and industrious enough to provide a little better than average living for his family and to acquire more land.

The older boys began to be of more help as they learned the important lesson that hard work is the biggest part of life and that the Bible is right when it says "he that doesn't work shall not eat." The philosophy that "we won't have what we don't produce" is a lesson that some of our young people need to learn today.

Few inventions had been perfected thus far that would share part of the burden of work and make it possible to produce a litle more with less effort. The steam boat, the railroad locomotive, and the cotton gin were the principal ones. The grist mill also was a familiar facility of the time where they might throw a bag of corn across the mule's back and carry it to be ground into meal. One of the early local mills was one powered by wind instead of water. It had a wheel with veins made like sails of a ship. Progress was slow but it was progress, that being the beginning of the century of progress. It was the starting of the age of invention and advance, a part of the industrial revolution. The greatest change was begining to take place that has ever been known to man in his 60 to 70 centuries on the earth, and all this during the lifetime of that boy born five years after the war. It is unbelievable that such progress should take place in such short time after so long a period of struggle in getting started. Of course, the ground work was being laid and we have taken advantage of the ideas and discoveries of past generations—the accumulated knowledge of antiquity. If Mr. Gus or any person had been told that he would see what he has he would have recommended psychiatric care for the dreamer—"the insane asylum then." Even looking back it still seems unbelievable and incredible.

Let us consider some of the contrasts between the beginning and the latter part of the period of his lifetime, the first and the last few years. The best heat that could be had then was some good oak wood and a handful of lightwood splinters and then the warmth was not constant and only one side could be comfortably warm at a time. Now a completely constant automatically controlled warmth is enjoyed by most people—no effort, no attention, no worry. Then a few candles or possibly a light-wood faggot provided inadequate illumination. They usually retired at dark and arose again when daylight came at dawn. The house was in darkness nearly as long as outdoors. Progress in this area was very slow over this hundred-year period, but now a flick of a switch and the whole house is adequately illuminated and the outdoors as well. In fact, in many cases, the lights come on automatically when it gets dark and off again at break of day. And, although lightening may strike the transmission lines leading to homes a gadget cuts off the current to avoid damage and then in a moment restores it again. Travel too was slow, thought interesting, especially if on horseback. People seldom if ever got more than 30 miles from home. Now the lack of desire is about the only thing that seems to limit travel. Time and distance are insignificant in our day, anywhere in our country and even foreign lands are accessable in but a very short time. Contrast with that: "Over the river and through the woods to grandfather's house we go," usually on oxcart vs. making a trip to the moon 240,000 miles away in just several days. Mr. Gus still doesn't think they were ever up there! In his boyhood days it would have seemed utterly impossible to make that kind of trip. In fact, it probably was never thought of at all. Even imagination would not have suggested such a ridiculous idea. The significance of what we are saying is the tremendous change that has taken place in these few short years. Contrast from oxcart to jet propelled rocket. From 20 to 150 bushels of corn to an acre. From an acre of land tilled in a day to a whole farm in a couple of days. From fifty cents a day for a farm hand to $2 an hour. From a few scrawny-razor backed hogs to several tons of pork a year. Several bushels of corn picked in a day to hundreds shucked and shelled in one operation, in the field and already loaded in a truck. From a spider on the hearth to a modern gas or electric range controlled automatically—just put the roast on and go to church and dinner is ready to serve when you return. No water to tote, no wood to cut, no fire to build. From hoop skirts all the way to the ground made of yards of cloth to practically no skirt at all. Some would consider that real progress, or is that regression? Change is the characteristic of Mr. Gus' lifetime—almost nothing is the same.

But fortunately there are some things that do not change. There is stability. There are constants. Things we can depend on being static. The seasons still come and go. The sun still rises and sets as usual. The Bible says that summer and winter, springtime and harvest will be as long as the earth exists. There are some variations in weather but that is for the best. Our bodies continue to manufacture energy from the food we eat. Metabolism is one of the miracles of nature, a really marvelous thing. In spite of modern medicine we still have to depend on the natural inclination of the body to heal itself. Keep your body healthy and it will combat disease of its own accord. Many things are the same, not only in the last hundred years but since creation. They remain the same since man was placed on this earth.

Though we waste much oxygen needlessly, nature seems to replace it. The land properly tended could well produce enough food for many times the present population. Many laws of nature never change. God's plan to water the earth still operates, not altogether to our liking, but with a little supplement it proves adequate. Whatsoever a man sows that shall he also reap is a timeless principle. There are spiritual laws as well as natural laws that are constant. Not only does a certain seed reproduce itself under favorable conditions but the laws of cause and effect unalterably demand that moral acts have their consequences. Such laws cannot be bypassed either in the physical or the spiritual realm, in spite of our modern techniques.

Also, encouragingly, the same God who watched over that mother and little family during the war is still on the throne watching over and caring for those of us who trust and depend on Him. In fact, He constantly heaps blessings on His whole creation. He has not only provided for us sustenance, protection, and pleasures materially, but has given us faith for today and promise for tomorrow and eternity. He has given His unerring Word to comfort and guide us daily—the Old Testament as well as the New. The Old is not obsolete. The identical principles that were true then are true now. God is not dead as some would have us believe, nor is His Word out of date. The faith, trust, and guidance He gave to the first parents in the Garden of Eden, and to each succeeding generation of their decendents is ours for today. Jehovah, Savior of Adam, Abraham, David and all the rest, is Jesus our Savior today. Give me that old time religion—it was good enough for Paul and Silas—it is good enough for me.

It has always been true: "If we walk with the Lord in the light of His word, what a glory He sheds on our way. If we do His good will, He abides with us still, and with all who trust and obey. Trust and obey—for there's no other way to be happy in Jesus but to trust and obey." So goes the beautiful and practical old hymn.

The Bible says: "All have sinned and come short of His glory"—that is, short of what He expects of us. It also says: "The wages of sin is death." It says: "The soul that sinneth shall die." And it says: "Without the shedding of blood, there is no remission of sin." This was true of Adam and

Eve. It was true of David, of Samson, of Peter, of Martin Luther, of Billy Graham, and of you and me. But it is equally true that it says Christ died for our sins. It pictures the Lamb of God that taketh away the sin of the world.

The provision God made for Adam and Eve in slaying the lamb to provide clothing for them, the requirement of the blood on the doors of homes of Israelis in Egypt and others were options on their salvation from sin, promises pictured of Christ our Passover sacrificed for us. The same God with the same plan, the plan that involves faith in His promises. Abel's sacrifice was better than that of Cain, that is, more acceptable because of his faith in the blood of atonement—one life forfeited for another, a picture of what Christ did for all mankind. That it was in obedience to God's eternal plan, the plan He instituted before the foundation of the world.

"There is none other Name under heaven given among men, whereby we must be saved." *Acts 4:12.* Jesus said: "I am the way, the truth, and the life: no man cometh unto the Father but by Me." *John 14:6.* "There is one God, and one mediator between God and men, the Man Christ Jesus." *I Timothy 2:5.* Now is this modern age—in this age—old way we trust Christ as our Savior and confess our sins and He is faithful and just to forgive us our sins and cleanse us from all unrighteousness. These truths Mr. Gus taught in his Sunday School class over the years have ever been true and will ever be true. They are the most basic constants known to man. Jesus Christ, the same yesterday, today, and forever. Lo, I am with you always, even to the end of the age. I will never leave nor forsake you. There is no shadow of change with Him, the Bible says. Some other verses of Scripture are appropriate here:

Hebrews 1:8–12. "But unto the Son He saith, Thy throne, O God, is for ever and ever: a scepter of righteousness is the scepter of Thy kingdom. Thou hast loved righteousness, and hated iniquity, therefore God, even Thy God, hath anointed thee with the oil of gladness above thy fellows. And, Thou, Lord, in the beginning hast laid the foundations of the earth; and the heavens are the work of Thine hands. They shall perish; but Thou remainest, and they all shall wax old as doth a garment; And as a vesture shalt Thou fold them up, and they shall be changed; but Thou art the same, and Thy years shall not fail."

There is a promise of His coming in the flesh found in the Old Testament. *Micah 5:2:* "But thou, Bethlehem Ephratah, . . . out of thee shall He come forth . . . that is to be ruler in Israel; whose goings forth have been from of old, . . . from everlasting." *John 1:1:* "In the beginning was the Word and the Word was . . . God. *Vs. 14:* "And the Word was made flesh and dwelt among us, and we beheld His glory, the glory as of the only begotten of the Father. . . ." Also, *Colossians 1:13–17:* "Who hath delivered us from the power of darkness, and hath translated us into the kingdom of His dear Son: In whom we have redemption through His blood, even the forgiveness of sins: Who is the image of the invisible God, the firstborn of every creature: For by Him were all things created, that are in . . . earth visible and invisible, whether they be thrones, or dominions, or principalities, or powers; all things were created by Him, and for Him: And He is before all things, and by Him all things consist." For it pleased the Father that in Him should all fulness dwell. Again, *Hebrews 1:1–3:* "God, who at sundry times and in divers manners spake . . . unto the fathers by the prophets, Hath in these last days spoken unto us by His Son, whom He hath appointed heir of all things, by Whom also He made the worlds; Who being the brightness of His glory, and the express image of His person, and upholding all things by the word of His power, when He had by himself purged our sin, sat down on the right hand of the Majesty on High."

So, in spite of the startling changes having taken place in our lifetime, the universe (outer space) is still under the control of a living, unchangeable God. And, as well, (inner space) our hearts can rest in the unchanging love of a considerate, constant and condescending Lord and Saviour. So let us take heart—enough change to keep from monotony—enough stability to keep from anxiety, and frustration.

PROPOSED REORGANIZATION OF THE TRANSPORTATION OF FEED GRAINS INTO NEW ENGLAND

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, on June 1, 1971, I wrote to George Stafford, chairman of the Interstate Commerce Commission, asking him to evaluate a study of a modernized system of transporting feed grain by water-rail cooperation from the Midwest to New England. Chairman Stafford replied on August 25 and I am delighted the Commission has scheduled an informal open staff conference September 16 on the proposal by the Water Transport Association. At the end of my remarks I will include, along with other material, an editorial from the New York Journal of Commerce which sets forth some facts about the hearing.

Mr. Speaker, the ICC is to be commended for holding a staff conference on this proposal. It is, indeed, an honor to have been requested by John Creedy, president of the Water Transport Association, to deliver the opening statement. I am certainly looking forward to being present at this important meeting. At this point I include the following extraneous matter: My letter to Chairman Stafford; his reply; a speech by John Creedy entitled "Action Program for Accelerating Growth of Great Lakes Region; and an editorial from the August 27, 1971, issue of the Journal of Commerce:

JUNE 1, 1971.

Mr. GEORGE STAFFORD,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I am enclosing a copy of a Water Transport Association Study for your consideration. Briefly, the study proposes a modernized system of transporting feed grain by water-rail cooperation from the Midwest to New England that would cut costs about in half.

The cost of feed is decisive in competition between regions of the country, but New England appears to be handicapped because of high rail freight rates on feed grains from the Midwest into the Northeast.

There are economic advantages in this proposal for everyone, and I hope that the railroads will cooperate as a willing partner for the common good. The proposition should be attractive financially to both railroads and lake carriers because much greater utilization of equipment is proposed.

I have been in contact with Buffalo with Francis Dee Flori, trade development manager for the Niagara Frontier Transportation Authority, and he has informed me that the port has what is needed with regard to space, storage facilities and a loop railroad track at dockside. Preliminary plans are ready for each of these needs. With facilities for quick transfer, the port of Buffalo would also stand to gain millions of tons of new traffic in a variety of bulk cargoes.

Thus, I am urging that the Interstate Commerce Commission take the lead in applying moral suasion to assure more efficient freight service. More specifically, I propose that the Commission issue a policy statement suggesting that rail and water carriers examine the potential for improving the efficiencies of services into New England and propose joint rail-water rates reflecting unit train efficiencies commonly available for commodity movements in that section of the country.

I understand that there is a traditional reluctance of the railroads to work with water carriers, but railroads could not ignore the Commission's proposal.

Let me know your thoughts on this proposal. Thank you for your time and consideration.

Sincerely,

JACK KEMP.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., August 25, 1971.

Hon. JACK KEMP,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KEMP: This is in further response to your letter of June 1, 1971, concerning the study entitled A Proposed Reorganization of the Transportation of Feed Grains into New England, which was prepared for the Water Transport Association by G. W. Fauth & Associates. On June 10, 1971, we acknowledged the receipt of the letter. Also on August 17, 1971, we contacted your office by telephone regarding this matter.

By notice served August 18, 1971, the Commission has notified all those indicating an interest in the study, as well as others, that an informal staff conference will be held at the Commission's offices in Washington, D.C., on Thursday, September 16, 1971, at 9:30 A.M., for the purpose of obtaining details of the study as well as to hear the positions of the interested parties. For your ready reference, a copy of the notice is attached.

I hope that I have been of service to you in this matter.

Sincerely yours,

GEORGE M. STAFFORD,
Chairman.

FEED GRAINS TO NEW ENGLAND—NOTICE OF INFORMAL STAFF CONFERENCE

A proposal for lake-rail transportation of feed grains from certain midwestern States to New England has recently been brought to the Commission's attention. The operation contemplates the use of self-unloading Great Lakes vessels and unit-train rail movements from the lake ports to destinations. The stated objective of the proposal is to make feed grains available in New England at transportation costs lower than those now borne by shippers and receivers, and thus enable New England poultry producers to compete more effectively in the principal middle Atlantic and northeastern markets. The Farm Bureau Association, the New England Governors' Conference, the Special Assistant to the President for Consumer Affairs and the Water Transport Association have expressed an interest in the proposal. This notice is being served upon their representatives. In addition, this notice is being served upon all Class I and Class II line-haul railroads serving New England; the line-haul railroads serving Buffalo, N.Y., connecting with the Class I and Class II line-haul carriers serving New England; the Association of American Railroads; the nationwide association of motor carriers, namely the Amer-

ican Trucking Association; and the nationwide association of shippers, namely, the National Industrial Traffic League.

Considering the responsibilities of the Commission under the national transportation policy to administer the Interstate Commerce Act "to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, "and the public interest evinced in the proposal, the Commission has designated a task force composed of members of its staff to participate in an informal conference with all interested persons. The objective of the informal conference will be to obtain details, as well as to hear the positions of the interested parties on a record.

It is expected that the parties will at least supply the following information:

(1) A factual explanation of the proposal;

(2) The provisions of the Interstate Commerce Act applicable to the proposal, if any;

(3) A statement of position regarding the proposal.

The informal conference will be held in Hearing Room B, at the Commission's offices in Washington, D.C., on Thursday, September 16, 1971, beginning at 9:30 a.m.

Notice of this informal conference is being given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C.

ROBERT L. OSWALD,
Secretary.

ACTION PROGRAM FOR ACCELERATING GROWTH OF GREAT LAKES REGION

(By John A. Creedy)

It is certainly a privilege to be invited to speak to the Great Lakes Task Force today and to ask you to take part in a program we all believe to be essential to the economic health of the Great Lakes region—the most efficient use and development of the region's resources so that the people of the region may improve their quality of life.

Let me tell you where we fit in. Water Transport Association is composed of the leading steamship and barge operators on the Great Lakes, on inland rivers, in the container trades, in the coastwise, intercoastal and ocean barging trades. Our members have pioneered in the last 10 years radical improvements in productivity and reductions in cost. Just to give you an idea of the contribution domestic water transportation makes to the economy, I'll give you one figure—Great Lakes and inland barge operators receive in revenues only one per cent of the nation's freight bill, but they do about 16 per cent of the work of hauling freight.

When we talk about efficient use of the nation's resources, obviously encouragement of intensive use of water transportation is high on the list of any regional development organization because efficiency in freight transportation is such an all-pervasive and all-important factor in production, amounting to $1 out of every $10 in the Gross National Product. Any region that can cut its transport costs under that of another region is ahead in a most significant way.

I don't need to tell this group that one of the principal advantages of the Great Lakes region is the low cost water highways of the Great Lakes themselves.

Now something very fundamental is happening to erode the natural advantage of the Great Lakes region. The effect of it is beginning to turn up in the national statistics of regional growth. The Great Lakes region still produces about half of everything manufactured in the nation, but gradually, slowly the rate of growth is slipping. The Gulf Region and the Southeast are growing more rapidly. The slippage isn't much yet but it's enough to light a warning light. It's uneven; some parts of the region do better than others. But the statistics are beginning to show a trend.

The time to reverse that trend is now—before it starts accelerating. I don't pretend to know all the complicated reasons for this development. But I do know something about transportation. The region has problems with transportation. The ICC has received testimony from almost every railroad in the region which states that the railroads are not making enough investment in new equipment and facilities to keep up with the growth of the region. The biggest railroad of them all is in bankruptcy. We're trying to help meet that issue by supporting The Surface Transportation Act of 1971, a bill introduced last week by Senator Vance Hartke of Indiana and Representative Brock Adams of Washington to improve the economic position of all modes of transportation and stimulate the flow of new investment into railroads, motor carriers and water carriers. The measure has the whole-hearted support of the Water Transport Association, the American Trucking Associations and the Association of American Railroads. We'll be working together with the truckers and the railroads and enlightened shippers to stimulate the development of better service, greater productivity and, in the end, stable and perhaps lower rates.

But, at the same time, the Great Lakes region is missing a tremendous opportunity in not insisting that the best efficiencies of rail and lake transportation be coordinated. We're dealing here with the problem of breaking the crust of decades of thinking and decades of anti-competitive practices, practices which would not be tolerated for one second in the unregulated segment of the economy.

We are working closely with the railroads and the truckers on issues of common interest which will benefit the general public. We also hope that we can work closely with them on such controversial issues as improved intermodal coordination, which, if resolved, will benefit the public through the stimulation of greatly improved efficiency. As to the truckers, we have never had a problem. As to the railroads, there has been a problem.

For 25 years we've been bogged down in law suits and the result is that the failure of coordination of water and rail—the natural partners in the low cost movement of vast quantities of commodities—has been considered a private matter between the railroads and the water carriers. We've won all the law suits; but they've had very little effect because, under the Intertsate Commerce Act, unlike the antitrust acts, there are no penalties for anti-competitive behaviour.

The problem has been intensified recently by the rail mergers. Before the mergers, there was at least a little scrambling for traffic among the carriers serving the lake ports. Now the huge merged systems are in a position to squeeze the lake service out entirely in many major trades. If current trends are not reversed, certainly within a few years, lake transportation and its tremendous contribution to regional productive efficiency will be greatly reduced and could be eliminated.

What is the problem? It can be best illustrated by a story. The story goes that a man visited a friend in the hospital who had had a heart attack and was being given oxygen. As they chatted, the man in the tent began turning blue and waiving frantically at his friend. He finally grabbed a pencil, scribbed a note and turned to the wall and died. The note said "You're standing on my oxgyen hose."

And that's the problem with the relationships between the railroads and the water carriers. The lake carriers on movements of grain, coal and many other basic commodities are wholly dependent on their connections with the railroads. By manipulating the rates to and from the ports compared to the all-rail alternative, the railroads can in effect step on the oxygen hose and effectively kill off the water-rail route as a competitive alternative to the all-rail. The efficiency of lake transportation cannot be applied, the railroad is not used as its best efficiency, the prod of competition is removed, and inefficiency in the use of resources results. They are in fact in a position to determine whether they have any competition at all.

The traditional railroad response is to insist that it must have the longest possible haul on its line. But this is no different from the urge of enterprises in any field to expand their business volume. All are interested in enlarging their share of the market. The crucial point is that none has a right to do so by exploiting a position of superior economic power to squeeze a dependent competitor. Success or failure of individual competitors should reflect comparative economic merit rather than comparative economic power.

The absence of competition can have severe adverse effects on the economic development of a region. No better or more dramatic illustration of this fact is to be found than in the livestock and poultry industry of New England. There the railroads have a complete monopoly of transportation of corn and soybeans—the chief feed grains. New England, like the Southeast, does not grow grain to feed its dairy herds and its poultry.

Down in the southeast, the southern railroads have the competitive prod of Tennessee river barge transportation and truck transportation. When the Tennessee River was canalized in the depression years, farmers in Alabama and Georgia, desperately in need of an alternative crop to cotton, began raising chickens. Low cost barge transportation of feed has made this industry possible. The railroads saw the business growing and reduced their rate on corn and now Georgia and Alabama are the leading poultry producers in the nation.

The contrast between the Southeast and New England is quite ironic. Less than three decades ago, the State of Georgia brought a famous action against the northeastern railroads alleging discrimination in freight rates which prevented the development of industry in the Southeast. They won the case. The discrimination was removed. Today the situation is reversed. Rail freight rates on feed grains for the northeast have risen continually until they are now double the rates, for comparable distances, of those applying to the southeast. The New England poultry industry is in a sharp decline and New Englanders buy poultry in their super markets raised in Georgia. New England farmers are shut out of their home markets by freight rates which discriminate in favor of the southeast. For years the New Englanders have been complaining strongly but so far have been totally ignored by the railroads and the ICC.

After more than a year of work the Water Transport Association published a study suggesting a combination of the best efficiencies of lake transport and rail transport into New England using technologies readily available in other parts of the country—Great Lakes self-unloaders delivering grain to Buffalo, much improved efficiency in transloading to unit trains, domestic unit train service hitherto reserved for the export traffic, and improved capacity and efficiency in the handling of grain in New England. Put together all those efficiencies and we believe a reduction of about 50 per cent in transport costs would be possible and, as a result, the delivered cost of grain to New England would make it feasible for New England farmers to compete in their own home markets. We did the study for the Northeastern Association of State Departments of Agriculture. Naturally, they were interested and the proposal caused quite a stir, particularly when it was

pointed out that the unit train rail rates we proposed were higher than the rates the railroads had already published to Albany, New York for export which they claim are highly profitable. The study said that the rates would, in fact, although lower than the present levels, be more profitable for the railroads involved than the current high rate levels because of the greatly improved utilization of the freight cars in unit trains.

But, we said, the thing would die before it was born if the rail rates out of Buffalo are not published which are comparable, cost and distance considered, with an all-rail alternative. It is no use investing in new transloading facilities in Buffalo employing the latest bulk handling techniques, it is no use shaking up the methods of loading steamships or large barges at lake ports, no use developing new wrinkles in grain marketing and grain sources, no use improving Great Lakes water transport technology if the railroads can cancel the effect of all such improvements by manipulating rates from the ports in relation to the all-rail rates.

A lot has happened since April.

In the first place, the WTA study focussed a bright spotlight on the fact that the railroads were presiding over a monopoly of a declining business. Instead of 2,000,000 tons a year in traffic, they have a chance to build that to maybe six million tons and make much more net money in the process.

Next, the New England Grain and Feed Council endorsed the study. That was followed by endorsement of the Northeastern Association of State Departments of Agriculture. That, in turn, was followed by a strong resolution addressed to the railroads and the ICC by the New England Governors' Conference urging action on the study. The Niagara Frontier Transportation Authority became very active in support of action as did the Buffalo Chamber of Commerce.

There have been many enquiries to the Commission about the study from Congress. It is urged that a Commission task force be appointed to examine the question of comparability of rates from Buffalo to New England, why such rates would serve the public interest, why train load rates or unit train rates are not available for domestic service on the same levels as for export and finally why the Commission should not use its powers to prescribe ex-lake rates from Buffalo which are comparable, cost and distance considered, to alternative all-rail rates.

That's the basic issue. If you and we can't win that issue for the Great Lakes ports, we can all forget the contribution of the low cost Great Lakes water highways to the efficient performance of the Great Lakes region.

So we have the possibility of a Commission task force examining this issue for the Buffalo-New England situation. That would be an unprecedented thing for the Commission to do and would indicate that the Commission intends to take leadership in this general area.

Next we have some reaction from the railroads.

First the Penn Central, which had previously met the pleas of the New England Governors and farmers for reduced rates with rate *increases*, has proposed a special three-car rate which does not go nearly far enough to put the New Englanders on a competitive basis with the Southeast, but it is at least a step in the right direction. It is a reduction graduated by mileage up to $2 a ton for the farthest distance. The Traffic Executive Association of the Eastern Railroads has refused to go along with this proposal, but the Penn Central has published the plan independently for Penn Central destinations. Thus, all the talk since April of the need for competition in transportation to New England has been worth something, at least to Penn Central customers.

Second, the Penn Central is proposing trainload grain rates from Illinois, Indiana and Ohio origins to Morrisville, Pa., near Trenton—one of the first breakthroughs on trainload rates for domestic use. The rate levels are at about 9/10ths of a cent per ton-mile compared to the 7/10ths of a cent WTA had proposed in its study and the half a cent or ton mile commonly available for export services. Thus at least the principle of domestic unit train or trainload rates is now being advanced, again pioneered by the Penn Central.

Now our objective must be to hook that trainload rate—or a lower one if productivity increases would seem to warrant a lower rate—out of Buffalo into New England with comparability of the rate levels strictly observed.

If that can be achieved, New England will have a competitive water-rail service to the all-rail service and a permanent competitive prod will be introduced into the transportation of feed grains into New England.

The WTA has aroused widespread interest in its proposal. It seems to me that anything that can be achieved at Buffalo on ex-lake rates can be achieved at any other lake port. The time to make our breakthrough is now.

Just as the Northeastern Association of State Departments of Agriculture have seen the need for water-rail coordinated service as a competitive prod for the railroads, so the Great Lakes Task Force can play a similar role in educating the public on the urgent need for water-rail coordination elsewhere in the Great Lakes region.

Our study has focussed the problem. Rates to and from the ports must be comparable, cost and distance considered, with the all-rail alternative. If they are not, the late carrier can be destroyed just as surely as the patient whose friend had his foot on the oxygen hose.

This is not an easy fight to win. The water carriers have worked hard to lay a firm legal foundation for this principle with many trips to the Supreme Court over 25 years. That legal structure is now built. The Commission, which allowed the railroads to destroy the coastwise and intercoastal water carrier industry with precisely these tactics is now much more aware of the anti-competitive consequences of rate disparities on traffic to or from ports than it has ever been before. Indeed, many of us think this Commission is much more competition-oriented than any Commission in recent years. If it succeeds in developing policies and standards which stimulate competition, it will exceed in fame and public usefulness the Commission of the great days of Joseph Eastman.

Believe me, the New Englanders are on the war path. Railroads are great institutions. Such institutions do not move of their own accord; they have to be pushed where new thinking is concerned. It is clear that they are starting to move, at least the Penn Central, under enlightened new management, is showing practical concern for applying the best efficiencies of railroading to the needs of the region.

But there is much to be accomplished. More people have to join the New England Governors on the war path if this principle of comparability of rates is to be firmly established and new investment is to flow into greatly improved productivity at the ports, on the lakes, and on the receiving end.

It would indeed be ironic for the Great Lakes to lose out to other regions in the constant fight for its proper share of the nation's production. The Great Lakes region has the financial resources, the skilled labor, the expert management, and a remarkable concentration of educational establishments constantly turning out inventive and creative people in every field, but its transportation plant is faltering. A short cut to improved efficiency in transportation—particularly at a time when the railroads claim they cannot find the money to invest in modern equipment and facilities sufficient to keep up with the growth of the region—is the energetic promotion of water-rail coordination.

The economic health of the Great Lakes region is at stake. Our objective is improved efficiency in transportation and the most efficient use of available resources. If we keep our eyes on that objective, we'll win through in the end.

Rules of the Game

One of the least exciting of the Washington announcements that followed the posting of Game Plan No. 3 came from the Interstate Commerce Commission. It disclosed simply that ICC will "conduct an informal staff conference Sept. 16, 1971, to hear a proposal to make feedgrains available in New England at transportation costs lower than those now borne by shippers and receivers."

Coming just three hectic days after Mr. Nixon had exploded his economic bombshell, this was largely lost in the news shuffle. After all, what rating does an ICC informal staff conference get against a de facto devaluation of the American dollar, a 90-day wage price freeze, changes in the tax structure and a 10 per cent ad valorem surtax on imports?

Very little, naturally enough. Yet within the flat phrasing of this routine announcement could be the germ of something significant. Is the commission at last going to assume some kind of role in promoting joint intermodal rates? It is supposed to do so under the Interstate Commerce Act, but up until now has seemed oddly reluctant to take even a cursory look at the subject, especially as it applies to rail-water and water-rail rates.

It has had plenty of opportunities. On many occasions during the past two decades water carriers have asked ICC to rule that they are entitled under the law to the same treatment the rails offer to each other on connecting movements. In other words, if a rail carrier offers to move a certain commodity from point A to point B to another connecting rail carrier, or to a particular shipper, it should offer the same rate to a water carrier intending to move the shipment to a more distant destination.

On some occasions, and with respect to certain movements, some railroads have accepted this, and developed new business in consequence. Most, however, have not. The issue is not merely one of a single railroad being unwilling to short-haul itself (which could be the case if its lines ran directly into point C, also served by the water carrier). It is over the unpublished, almost unspoken, rules of the game, namely, that no railroad should offer a favorable connecting rate to a water carrier if another railroad might lose some business in consequence.

Citing the Interstate Commerce Act, the water carriers have challenged this practice a number of times, and in practically every major case (the so-called ingot molds case being the landmark) have won in the courts. But court decisions, like ICC decisions, have tended to be one-shot affairs, and have ruled on one proceeding without making it clear that the same principles should apply to all others akin to it. Court decisions, moreover, are very expensive and drawn-out affairs. In consequence the water carriers tried persuasion on the railroads, and when that didn't seem to produce many dividends, turned their attention to the shippers and receivers.

That is what the New England feed-grain case is all about. It is not the first of its kind, but it is currently the focal point of efforts to force some kind of change in the railroad-sponsored rules of the game.

Some years ago water carriers, acting in-

dependently, and railroads, acting likewise, promoted the growth of a thriving broiler business in Northern Alabama and Georgia. They did it by cutting feed-grain rates from the Midwest. It thrived, at least, until the EEC countries adopted variable import levies that halted a flourishing broiler export business in its tracks. New England poultry growers did not benefit from this because they were never offered comparable cuts in their delivered costs of feedgrains. In fact, they found themselves hard pressed by the new competition from the South.

After failing to win over the railroads, the Water Transportation Association went to New England with the following message: If the rails would give them equitable rates on feedgrains delivered to Great Lakes ports, they could deliver the shipments to broiler producers in the Northeast far more cheaply than could the rails alone. They won the ear of the New England governors and of many other economic groups in that area.

A catch was that this would require the use of unit trains, the erection of special self-unloading facilities and other types of capital projects for which the water carriers were willing to put up the money, but only on condition they had some assurance that the investment wouldn't be wiped out if the rails subsequently had a change of heart.

It is this problem that is to be discussed at the "informal staff meeting" ICC has scheduled for Sept. 16. Within the present terms of reference it is not very large in context. But in view of what it could produce, it could have wide application.

We see no reason why, every time this issue comes up, it should have to be appealed to the courts at the expense of many legal costs and a vast waste of time for all concerned, especially when nobody seems to agree that a ruling handed down in one case can be construed as applicable to any other case.

There is no reason, either, for large-scale coercion. ICC itself should establish some rule of reason governing such problems. Even if it has to shake its stick a bit, it would be better to have a set of rules that everyone understands than a foggy method of procedure that no one does.

EXPLOSIVE SITUATION AT PANAMA FURTHER EXPOSED

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, one of the greatest difficulties in clarifying the problems of the Panama Canal has been, and still is, the silence of the mass news media of the United States. Because of this our people are fortunate in having civic, patriotic and other groups that are alert and are not misled by self serving propaganda, official or unofficial.

Among the organizations that have been in the forefront of those warning the Congress and the Nation of the dangers in the Caribbean, including Panama and Cuba, has been the Defenders of the American Constitution, Inc., Post Office Box 1776, Annandale, Va. 22003, of which one of our Nation's great soldiers, Lt. Gen. P. A. Del Valle, USMC (retired), is president.

This patriotic organization, in addition to its regular monthly periodical, Task Force, publishes, as the occasions require, a one-page Alert dealing with crucial issues and outlining plans to secure political action. Its Alert No. 77 on the Panama Canal treaty situation drew some fire from one of the persons named in it in the form of a letter on August 18, 1971, to General Del Valle from a State Department official.

In a most comprehensive reply on August 30, General Del Valle, an experienced officer with extensive service in the Caribbean and a careful scholar, presents facts in what amounts to a devastating exposure of distorted State Department thinking that should be available to all Members of the Congress. This material should be helpful to all concerned with the forthcoming hearings on September 22 and 23 on pending Panama Canal sovereignty resolutions before the House Subcommittee on Inter-American Affairs, both members of the Subcommittee and others offering as witnesses.

To make the texts of Alert No. 77 and the resulting exchange of letters, which General Del Valle sent me, readily available to all Members of the Congress and the Nation at large, I quote the two letters and the two documents cited by Colonel Sheffey as parts of my remarks and commend them for careful reading.

DEPARTMENT OF STATE,
Washington, D.C., August 18, 1971.

Lt. Gen. P. A. DEL VALLE, U.S.M.C. (Ret.)
P.O. Box 1776
Annandale, Va.

DEAR GENERAL DEL VALLE: Your Alert No. 77 appears to be based upon a great deal of misinformation, the least of which is misspelling my name and quoting out of context a statement by me that gives a quite erroneous impression of the meaning of my total statement (see note at the bottom of the enclosed copy).

I am also enclosing a summary of the background of the current negotiations.

Since 1961 three Presidents and their Secretaries of State and Defense have sought ways of making adjustments in our relations with Panama that would protect U.S. interests on a mutually acceptable basis. I have been directly involved for the entire period, and know firsthand the struggle of dedicated and patriotic men to find a course that would meet the more reasonable aspirations of Panama without hazarding continued control and defense of the canal by the United States. Your allusion to the actions of these many highly responsible individuals as treasonable can be excused only as resulting from ignorance of their motives and objectives.

Ambassador Mundt has asked me to invite you to meet with him to better inform yourself of the U.S. objectives in the current negotiations and discuss the practicable steps you would advise for their accomplishment. Please call me at 632-2715 to arrange a mutually convenient appointment.

Sincerely,

JOHN P. SHEFFEY,
Colonel, U.S. Army (retired),
Office of Interoceanic Canal Negotiations.

(Alert No. 77: July 15, 1971—Calling all Patriots!)

PROVIDING AID AND COMFORT TO THE ENEMY IS TREASON

(By P. A. Del Valle, president Defenders of The American Constitution, Inc.)

(NOTE.—Top Secret—We dare the New York Times, the Washington Post, etc., etc., to print this Alert—Ed.)

FACTS

1. The Canal Zone and Panama Canal, owned, governed and operated by the United States with full sovereign rights, power and authority, is the most strategic crossroads of the Western Hemisphere, indispensible for interoceanic commerce and the security of the United States. They were acquired by the United States under treaty with Panama following its secession from Columbia of its own free will with terms that were the inducement to construct the isthmian canal at Panama instead of Nicaragua.

2. Its construction and subsequent maintenance, operation, sanitation and protection, including defense, from 1904 to June 30, 1968, represent a net total investment of more than $5,000,000,000, all provided by the taxpayers of the United States.

3. The report of the Atlantic-Pacific Interoceanic Canal Study Commission headed by Robert B. Anderson was submitted to the President on December 1, 1970, and recommended the construction of a second canal of so-called sea level design about 10 miles west of the existing canal at an estimated initial cost of $2,880,000,000, exclusive of the cost of the right-of-way and an inevitable indemnity to Panama.

4. According to Colonel John P. Sheffer,* former Executive Director of the Anderson panel, the main purpose of the sea level proposal in Panama is to obtain "better treaty relationships" with that country, that if these concessions to the Panamanians are not obtained the project is "not warranted", that "it is not justified economically", and that it "may never be constructed". (Cong. Record, 24 March, 1971, p. 7839.)

5. Certain elements of Washington Officialdom are now negotiating with Panama for a new canal treaty, or treaties, which hinge upon the surrender by the United States to Panama of our treaty-based sovereign rights, power and authority over the Canal Zone and its vast installations.

6. The United States negotiators for the surrender to Panama are Robert B. Anderson and John C. Mundt, who hold the personal rank of Ambassadors, appointed by the President.

7. The time table for the negotiations calls for completion and signature of the treaty, or treaties, in August, 1971, submission to the Senate for advice and consent in October and ratification before 1972. Meanwhile our State Department negotiators have stated that no problem is expected in securing approval in the Senate.

8. These diplomatic maneuvers are being obscured from public view by barriers of secrecy that are self-imposed by officials of the State Department.

9. The U.S. Constitution (Art. 1, Sect. 3, clause 2) vests the power to dispose of territory and other property of the United States in the Congress (House and Senate).

SIGNIFICANCE

1. The continued control of the Panama Canal by the United States is absolutely necessary for the needs of both, interoceanic commerce and Hemispheric security.

2. Surrender of the canal by the United States would inevitably result in Panama becoming another Cuba and the Panama Canal another Suez Canal, both under the control of the U.S.S.R.

3. The great challenge on the Isthmus is

---

* What John Sheffey actually said in a speech at the Smithsonian Institution (misquoted in the Congressional Record) was that the higher cost of a sea-level canal, in comparison with the cost of additional locks for the existing canal, could not be justified on economic grounds alone. A U.S. decision to build a sea-level canal in Panama would have to be based in part on its significant military advantages and in part upon the promise of a new relationship that would be mutually acceptable and enduring.

not United States control versus Panamanian but continued U.S. sovereignty over the Canal Zone versus U.S.S.R domination; and this is the challenge that should be debated in the Congress.

4. High officials of our government, without authorization of the Congress, are preparing another betrayal of the vital interests of the United States at Panama.

ACTION INDICATED

1. Write the President, your Senators and your Congressman opposing the surrender of any United States sovereign rights, power and authority over the Canal Zone or Panama Canal, or anywhere else, enclosing a copy of this Alert.

2. Write your Congressman demanding the impeachment and punishment before the bar of any high official who makes such recommendation.

3. Write letters to editors of your local papers along the same line.

4. Urge supporting action from your local business, civic and patriotic organizations.

5. Work for the election to national political office in 1972 only of those candidates for President, Senate and House of Representatives who will support continued United States sovereign control of the Panama Canal and its indispensable protection of the Canal Zone territory.

Lt. Gen. P. A. DEL VALLE,
U.S.M.C. (Ret.), President.
Lt. Col. M. P. MCKEON,
U.S.A. (Ret.), Executive Vice President.

DEPARTMENT OF STATE,
Washington, D.C.

BACKGROUND ON PANAMA CANAL TREATY NEGOTIATIONS

1. Panama has been discontent with the Treaty of 1903 since its inception and has sought more generous terms with increasing intensity in recent years. Revisions were made in 1936 and 1955. But the most objectionable feature from Panama's viewpoint—US sovereignty over the Canal Zone in perpetuity—remained unchanged. Neither did the increases in payments and other economic benefits for Panama in the two revisions provide what Panama considers to be its fair share.

2. Panama's discontent led to destructive riots along the Canal Zone border in 1958 and 1964. The 1964 upheaval and subsequent criticism of US policy in the OAS, the UN, and in other international forums underscored the timeliness of President Johnson's decision that the reasonable aspirations of Panama could be met in a new treaty that continued to protect vital United States interests. On December 18, 1964, the President stated:

"This Government has completed an intensive review of policy toward the present and the future of the Panama Canal. On the basis of this review, I have reached two decisions.

"First, I have decided that the United States should press forward with Panama and other interested governments, in plans and preparations for a sea-level canal in this area.

"Second, I have decided to propose to the Government of Panama the negotiation of an entirely new treaty on the existing Panama Canal.

"Today we have informed the Government of Panama that we are ready to negotiate a new treaty. In such a treaty we must retain the rights which are necessary for the effective operation and the protection to the Canal, and the administration of the areas that are necessary for these purposes. Such a treaty would replace the Treaty of 1903 and its amendments. It should recognize the sovereignty of Panama. It should provide for its own termination when a sea-level canal comes in operation. It should provide the effective discharge of our common responsibilities for hemispheric defense. Until a new agreement is reached, of course, the present treaties will remain in effect."

3. The basic U.S. treaty objectives established by President Johnson in 1964 and supported by Presidents Hoover, Truman, and Eisenhower were to maintain U.S. control and defense of a canal in Panama while removing to the maximum extent possible all other causes of friction between the two countries. To this end, new treaties were negotiated between 1964 and 1967 which contained the following major provisions (as summarized in the December 1970 final report of the Atlantic-Pacific Interoceanic Canal Study Commission):

The first of the proposed treaties, that for the continued operation of the present canal, would have abrogated the Treaty of 1903 and provided for: (a) recognition of Panamanian sovereignty and the sharing of jurisdiction in the canal area, (b) operation of the canal by a joint authority consisting of five United States citizens and four Panamanian citizens, (c) royalty payments to Panama rising from 17 cents to 22 cents per long ton of cargo through the canal, and (d) exclusive possession of the canal by Panama in 1999 if no new canal were constructed or shortly after the opening date of a sea-level canal, but no later than 2009, if one were built.

The second, for a sea-level canal, would have granted the United States an option for 20 years after ratification to start constructing a sea-level canal in Panama, 15 more years for its construction, and United States majority membership in the controlling authority for 60 years after the opening date or until 2067, whichever was earlier. It would have required additional agreements on the location, method of construction, and financial arrangements for a sea-level canal, these matters to be negotiated when the United States decided to execute its option.

The third, for the United States military bases in Panama, would have provided for their continued use by United States forces 5 years beyond the termination date of the proposed treaty for the continued operation of the existing canal. If the U.S. constructed a sea-level canal in Panama, the base rights treaty would have been extended for the duration of the treaty for the new canal.

The Panamanian President did not move to have these treaties ratified. Consequently, no attempt to ratify them was made in the United States.

4. President Nixon has established negotiating objectives similar to those of President Johnson in 1964, modified by developments since 1967. Primary US objectives are continued US control and defense of the existing canal. The rights (without obligation) to expand the existing canal or to build a sea-level canal are essential to US agreement to a new treaty, with the exact conditions to accompany these rights to be determined by negotiation. The US is willing to provide greater economic benefits from the canal for Panama and release unneeded land areas, again with the exact terms to be developed by negotiation.

5. Panama has expressed willingness to negotiate arrangements for continued US control and defense of the existing canal though it remains to be seen what they mean by this. Panama has not indicated its specific views on the acceptable duration of a new treaty. Panama is determined to terminate current US treaty rights "as if sovereign" and extend the jurisdiction of the Government of Panama into what is now the Canal Zone. The 1967 draft treaties would have terminated US jurisdiction in the canal area (but not control and defense of canal operations) with the construction of a sea-level canal. While the United States is now prepared to negotiate for the reduction in the extent of US jurisdiction in the canal area, it remains to be determined whether a mutually acceptable compromise can be worked out between US and Panamanian objectives in this area.

6. In the area of economic benefits Panama has indicated intent to seek a greater direct payment than it now receives ($1.93 million annually), the opening of the present Canal Zone to Panamanian commercial enterprise, increased employment of Panamanian citizens, and increased use of Panamanian products and services in the canal operation. All of these points were agreed upon in 1967, and the US remains willing to negotiate new arrangements along similar lines, provided they do not hazard US control of canal operations, the continuation of reasonable toll levels, and the continued financial viability of the canal enterprise

7. Renewal of violence in Panama, possibly more extensive than experienced in 1964, might be unavoidable if the treaty objectives considered by the Panamanian people to be reasonable and just are not substantially achieved. While the U.S. has no intention of yielding control and defense of the canal to the threat of violence, it is certainly in the U.S. interest in Panama, in Latin America, and worldwide again to demonstrate, as in 1967, our willingness to make adjustments in our treaty relationship with Panama that do not significantly weaken the United States rights to control and defend the canal.

8. It is our intent to show Latin America and the world that the United States as a great power can develop a fair and mutually acceptable treaty relationship with a nation as small as Panama. Such a treaty must, therefore, be founded upon common interests and mutual benefits.

9. The Provisional Government Junta of Panama has expressed intent to ratify a new treaty by plebiscite to ensure that it is acceptable to the Panamanian people.

10. The negotiators for the United States are Ambassador Robert B. Anderson, former Secretary of the Treasury and Secretary of the Navy. Ambassador Anderson is chief negotiator. His deputy is Ambassador John C. Mundt, formerly a senior vice president of Lone Star Industries and presently on leave from the State of Washington as State Director for Community College Education.

The Panamanian negotiators are Ambassadors Jose Antonio de la Ossa (Panamanian Ambassador to the United States), Carlos Lopez Guevara, and Fernando Manfredo.

OFFICE OF INTEROCEANIC
CANAL NEGOTIATIORS,
August 1971.

DEFENDERS OF THE
AMERICAN CONSTITUTION,
Annapolis, Md., August 30, 1971.

Colonel JOHN P. SHEFFEY,
Office of Interoceanic Canal Negotiations, Department of State, Washington, D.C.

DEAR COLONEL SHEFFEY: Your letter of August 18, with attachment, relative to Alert No. 77 of the Defenders of The American Constitution, Inc., was read with much interest.

First, I am sorry for having written an "r" for a "y" in printing your name, which mistake will be corrected in an appropriate manner at an early date. Next, as a career U.S. officer of Latin American birth and heritage, who has served in the Dominican Republic, Canal Zone, Panama and Cuba, and has specialized in the study of U.S. Caribbean policy, I wish to comment on certain features of your letter, with respect to the August, 1971 State Department attachment to your letter, entitled: "background on Panama Canal Treaty Negotiations". It accepts as a fait accompli a Presidential pronouncement of willingness to negotiate for the cession to Panama without authorization of the Congress of territory and property of the United States, in direct violation

of Article IV, Section 3, Clause 2 of the U.S. Constitution, apparently on the ground that failure to do so might lead to "renewal of violence in Panama". This is nothing but acquiescence to political blackmail by a supine avowal of readiness to surrender in advance, which illustrates the type of unrealistic thinking that involved our country in the disastrous Korean and Vietnam wars.

As you may recall, it was the original plan of Lenin to separate the Americans by taking over Guatemala, Cuba and Panama. The attempt at Guatemala failed, it succeeded in Cuba, and, according to recent reports, it is well along in Panama, under the Torrijos Revolutionary Government. Yet the State Department memorandum ignores the grave dangers involved, which to any thoughtful observer is incomprehensible.

High Panamanian officials in recent years have publicly admitted that the purpose of their government for 50 years has been to gain sovereign control of the Canal Zone. This was authoritatively confirmed in Panama when the present Panamanian negotiators, just prior to leaving the Isthmus for the current negotiations, made a public announcement that the objective of their government was full sovereignty over the Canal Zone.

Your statement about the struggle of "dedicated and patriotic men" to find a course that would meet Panamanian aspirations, without hazarding continued United States control and protection of the Canal implies the surrender of the Canal Zone to Panama, but retention of responsibility for the operation and defense of the Canal by the United States. This placement of responsibility without control of the strip that frames the Canal would create an impossible situation of responsibility without capability. It would be as if the Chief of the U.S. Executive Protective Forces, in order to appease Washington mobs, as a means for providing further protection for the President were to recommend opening the White House grounds for unrestricted public development.

The main point in the 1903 Treaty to which Panamian radicals object is the grant of full U.S. sovereignty in perpetuity. Their strategy is obvious: gain sovereignty over the Canal Zone, treat the Panama Canal Company as a private corporation, and then expropriate it, for which action it will have strong support in the United Nations, by the U.S.S.R. and its satellites. Thus, as has been repeatedly emphasized in the Congress, the issue at Panama is not U.S. sovereignty versus Panamian, but U.S. sovereignty versus Soviet control. What our country needs in the Canal situation is not more "dedicated and patriotic men" of the type that you have in mind, but another Secretary of State like Charles Evans Hughes, who in 1923 had a proper conception of the role of the United States as a defender not only of the United States but also of all the Western Hemisphere, including Panama.

As is well understood by scholars and others in Latin America, one of the prime purposes of the Canal Zone is the protection of the Canal itself. These two features, Zone territory and the Canal, are so inter-related that they cannot be separated, as was dramatically illustrated in the 1964 mob attacks on the Zone. Instead of giving away any part of the Canal Zone, as certain elements in the State Department seem determined to do, I would urge that the present Zone to be extended by securing a grant of full sovereign control over and purchase of the entire drainage area of the Chagres River. It is my recollection that such recommendation was made as a result of World War I experience by General Clarence Edwards when he was in command of our forces on the Isthmus. So far as known, no U.S. negotiator has made this proposal in the current negotiations.

In regard to your comments with respect to what you said in your speeches at the Smithsonian, my Alert was based upon a thoughtful address to the U.S. Senate on March 24, 1971 by Senator Strom Thurmond, whom I have known many years and found to be a very accurate and careful student. Furthermore, I do not see any substantial difference between what he quoted you as saying and what you state that you said, except that your footnote, superimposed on my Alert No. 77, evidently does not include some of the main points that you made, such as, that a sea level canal "may never be constructed". This seems to be confirmed by the words "without obligation" to construct a canal of sea level design in paragraph 4 of the previously cited "background" memorandum.

It is also noted that among the rights listed in paragraph 4 is one to "expand the existing canal." Inasmuch as the term maintenance in the current treaty provisions includes "expansion and new construction" for the purpose of maintaining, operating, sanitating and protecting the existing canal, why should there be a new treaty to give a right already possessed? Why create the opportunity for such extortion in the event of the major modernization of the existing Panama Canal, which requires no Treaty?

It is most unfortunate that you and others in positions of authority as regards canal Policy matters seem absolutely oblivious of the responsibility of the United States in the premises. What is perpetual for Panama is also perpetually binding for the United States.

Panama's geographical position may be an asset but it is also in equal degree a liability of that country, because predatory nations are committed to a policy of getting control of the Panama Canal and driving the United States from the Isthmus. Though you and the United States negotiators sweep this peril under the rug as if it did not exist, Soviet control of Cuba was the first major step in implementing this policy. All of you fail to recognize the fact that the U.S.S.R. has never disavowed its purpose to isolate the United States and to conquer the world for the International communist system, and you never discuss the danger of a Red takeover of the Panama Canal. Why do you not discuss every angle and feature involved? All of you seem to aim at appeasement of demogogic demands of a non-Constitutional and violent government of Panama, whose leaders hope to gain a firmer control of the country by an unmatched policy of tirade and abuse against the United States.

It is because of such attitudes that whatever may be the intentions of you and your associates, their effort is to achieve what amounts to a treasonous surrender of indispensable rights of our country that were constitutionally acquired and which have been exercised continuously since our legal and lawful occupation of the Canal Zone by the United States. In fact, I can think of no worse blow that could befall our country other than a direct nuclear attack on the continental United States. If any status quo ante of the Isthmus is to be revived, then the Canal Zone should be surrendered not to Panama but to Colombia, which in such event would quickly extend its authority over present day Panama.

You and your associates are equally heedless of the vast net investments of the United States tax payers in the construction, maintenance, operation, sanitation and protection of the Canal. All of you seem absolutely indifferent, as far as the tax payers of our country are concerned, for unwarranted appeasement seems to be your impelling motive.

You and your associates are not elected to office by the voters of the nation, and appear to be without the proper sense of responsibility, as far as national interests are concerned, even though you are under the direction and control of an elected official. It is for such reasons that the House of Representatives, which controls the purse strings in our government, has developed a powerful opposition to the proposals and efforts of those associated with you in the indicated connections. It is perfectly clear that the House will never consent to the disposal of the Canal Zone territory and other properties on it; and any treaty to the contrary will be fought in the Congress, and—if must be—in the courts and the country.

Our government should never have recognized the present sanguinary government of Panama, which maintains its powers by methods of despotism, the threats of confiscation of property, and the punishment of Panamanians who do not support it. To say the least, no treaty should be made with a government thus founded and sustained, and which may fall at any moment. Negotiating with a government of such ephemeral qualities for a treaty of such importance as that now being considered is sheer stupidity and folly. Moreover, the campaign of hatred now being leveled by this revolutionary government against the United States and its citizens, and the truculence and blackmailing methods now being employed by it as regards a new treaty are undoubtedly the result of Soviet collaboration and should never be tolerated by our government.

The acquisition of Cuba, the establishment of a Red regime in Chile, Soviet infiltration of other Latin American governments, and the presense of Soviet submarines in Latin American waters shows that the U.S.S.R. means business and has the audacity to continue its long established policy of taking over the Republic of Panama and wresting control of the Panama Canal from the United States. There are none so blind as those who will not see.

In writing you as I have, I realize that you are not the controlling influence in the present moves to bring about a surrender at Panama. They have a long history going back to 1917 and involving many others. Important State Department officials connected with the preparation of the disgraceful 1967 proposed treaties included Robert B. Anderson, John N. Irwin II, and Robert M. Sayre, all three of whom have strategic positions in the State Department at this time: Ambassador Anderson again as Chief Negotiator, Mr. Irwin as Under Secretary of State, and Mr. Sayre as U.S. Ambassador to Panama. To say the least, their appointments form a strange series of coincidences.

In view of all the above and many other facts too long for inclusion in a letter, I can see no point for any meeting with Ambassador Mundt. However, I would appreciate your sending me a copy of his biography and your advising me what responsible experience he has had with the Panama Canal prior to his present assignment.

Yours sincerely,

P. A. DEL VALLE.

THE SHARPSTOWN FOLLIES—XXXII

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, I am not alone in wondering what it is that the Assistant Attorney General did for the Sharpstown gang, and what he knew about their crooked deals. I am not alone in wondering how little he knew, or how much, and his explanation of it all.

Thus far we have had a lengthy statement from Mr Wilson, but it tells precisely nothing about the main question, which is whether he was a front man or patsy for a gang of crooks. Mr. Wilson al-

lows as how on at least one occasion he was a patsy; one can only wonder how many times over he was a patsy.

None of Mr. Wilson's comments to date have been convincing. One newspaper, observing it all, has said that Wilson ought to resign. Mr. Speaker, I offer for the enlightenment of the House the views of the New York Times of August 27, 1971:

MR. WILSON'S SHARP DILEMMA

Assistant Attorney General Will R. Wilson Jr. was for at least two years a close associate and chief counsel to Frank W. Sharp, a man whose financial manipulations give those of his fellow-Texan, Billy Sol Estes, an air of amateur innocence. Mr. Wilson, who repeatedly borrowed large sums of money from Mr. Sharp, besides giving him detailed advice, can only compromise the Nixon Administration if he remains as head of the Justice Department's Criminal Division.

It may be years before authorities unravel the complex maneuvers whereby the aptly named Sharp, according to the Securities and Exchange Commission, defrauded banks and insurance companies, manipulated stocks, bought and sold unregistered securities and tainted, if indeed he did not corrupt, a major segment of Texas officialdom. The Governor and key officials in the State Legislature took loans from him, bought his manipulated stocks and made handsome profits in the process.

Brought into court, Sharp was tried, not for "systematically looting" large enterprises, to use the commission's phrase, but only for making a false entry in a bank record and for selling unregistered securities. He was convicted. The penalty? A puny $5,000 fine and a three-year jail term—suspended.

At this point the Justice Department made the strange and wholly unwarranted move of asking the court for immunity for Mr. Sharp from all further prosecution. Theoretically, such a grant of immunity would encourage him to tell all. In practice, it meant that the Justice Department was ready to trade off a field marshal to go after two or three corporals.

Representative Henry B. Gonzales of Texas has long charged a cover-up, with strong suggestions that Deputy Attorney General Kleindienst has been protecting his subordinate, who, it should be said, did not himself take part in the immunity request. Mr. Wilson's general line of defense, culminating in yesterday's official statement, has been that the Sharp crimes occurred after he had left that highbinder's service. But Mr. Gonzales has documented an impressive case to the contrary. Mr. Wilson, he charges, was intimately involved in some of his principal's major transactions. As general counsel for three of Sharp's chief enterprises, he had to be. And on this all-important point he is still unresponsive.

When Mr. Wilson was his state's Attorney General, he was cited by the National Association of Attorneys General as the outstanding occupant of such office in the country. Either he deserved that tribute and was therefore keen enough to know, subsequently, what his client was up to, or he was enormously over-rated. In either case can he do justice to his present job or do the Administration a better service than to resign.

A BILL TO SET UP A PRICE-WAGE REVIEW BOARD

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS), is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, the President on August 15 took his first meaningful action to combat inflation when he announced a 90-day wage-price freeze.

Unfortunately, he has encumbered his program with two actions which seriously diminish its effectiveness. First, by his failure to impose a ceiling on interest rates, and by his efforts to enormously enhance corporate profits through the "asset depreciation range" guidelines issued earlier this year and the proposed 10-percent investment tax credit, he has so distorted the social compact that a disproportionate burden falls upon the wage earner. Secondly, his announcement of last week that he will eliminate the price-wage freeze on November 13, was, to say the least, premature.

Because of these presidential errors it is more important than ever that an anti-inflationary regimen be established to succeed the now largely frustrated first step.

To that end, I have today introduced H.R. 10592, to set up a Price-Wage Review Board. At a press conference earlier today, its provisions were explained by myself and UAW President Leonard Woodcock.

H.R. 10592 has the following main provisions:

It establishes a three-member Price-Wage Review Board, with members representing, respectively, labor, business, and the general public. Members are appointed by the President with the advice and consent of the Senate and serve 3-year staggered terms.

Within each product category large enough to have a significant effect on overall price stability—steel, automobiles, et cetera—the Board is required to designate as "price-dominant" the largest corporation in that category, provided it accounts for 25 percent or more of sales. In addition, the President may designate as price-dominant other corporations whenever he has evidence that they have taken or are about to take action which threatens overall price stability.

Any such price-dominant corporation must give the Board 60 days' notice before instituting a price increase.

The Board would then hold hearings on the proposed increase at which the corporation and other interested parties would be heard. If the corporation asserted that the price increase was necessary because of union wage demands, the union would be brought in as a party.

At the conclusion of the hearing, the Board would publish findings of fact on such matters as corporate profits, wages, and productivity, in order that public opinion could focus in an informed way on the proposed price increase.

I would envisage that the general public and policymakers would apply whatever guideposts are arrived at in a labor, business, and Government "social compact" to the findings of fact made by the Board, in order to determine whether the proposed price increase is justified.

The full text of H.R. 10592 follows:

H.R. 10592

A bill to provide a procedure for the development of facts necessary to the creation of an informed public opinion with respect to price policies pursued by corporations in administered price industries, and for other purposes

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

CITATION AS THE PRICE AND WAGE REVIEW ACT

SECTION 1. This Act may be cited as the Price and Wage Review Act.

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that there exists industries within the economy of the United States in which the economic power to determine the pricing policies of the industry rests with a small number of corporations. The Congress further finds that within such industries, price competition is either nonexistent or too weak to serve as a substantial restraint on price increases.

(b) It is the purpose of this Act to bring an informed public opinion to bear upon price policy in the industries described in subsection (a).

PRICE-WAGE REVIEW BOARD

SEC. 3. (a) There is hereby established the Price-Wage Review Board (referred to hereinafter in this Act as the "Board"). The Board shall be composed of three members, representing respectively labor, business, and the general public, each of whom shall be appointed by the President, and by and with the advice and consent of the Senate, for a term not exceeding three years and which term expires on June 30 of a year in which no other member's term is scheduled to expire, as designated by the President at the time of nomination. Not more than two members of the Board may be of the same political party. Vacancies on the Board shall not affect its powers, except that two members shall be required for a quorum. Any member of the Board may continue to serve as such after the expiration of the term for which he was appointed until his successor has been appointed and confirmed.

(b) The President shall from time to time designate one member of the Board as Chairman, to serve as such at the pleasure of the President. The Chairman shall be the chief executive officer of the Board.

(c) The Board may appoint such professional, clerical, and other staff as it determines necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

CONSUMER COUNSEL

SEC. 4. There shall be a Consumer Counsel of the Board who shall be appointed by the President, by and with the advice and consent of the Senate, for a term expiring at the same time that the term of office of the President who appoints him is scheduled to expire. The Consumer Counsel may appoint a deputy and such attorneys, accountants, economists, and other personnel as may be necessary to carry on the work of his office. Such appointments may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay with respect to such appointments may be without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

DESIGNATION OF PRICE-DOMINANT CORPORATIONS

SEC. 5. (a) The Board shall by regulation establish product categories for the purposes

of this Act. The Board shall establish categories only with respect to products which it determines to have a significant effect on overall price stability. Within each product category so established, the Board shall by order, after notice and opportunity for hearing, designate as a price-dominant corporation each corporation, if any, whose value of sales (1) accounts for 25 percent or more of the value of all sales within that product category and (2) is greater than the value of sales within that category of any other corporation. Any such designation shall remain in effect until revoked or by the Board of its own motion or on application of the corporation.

(b) The President may, after notice and opportunity for hearing, by order designate any corporation as a price-dominant corporation for a period not exceeding one year if there is evidence to indicate that a price action taken or about to be taken by the corporation, alone or contemporaneously (whether or not in concert) with other corporations, threatens overall price stability.

(c) (1) The President or the Board, as the case may be, shall determine whether to designate a corporation as a price-dominant corporation not later than sixty days following the issuance of a notice under this section that an order making such a designation is under consideration.

(2) No corporation may, during the sixty-day period referred to in paragraph (1), increase the price of any product within any product category in connection with which their designation as a price-dominant corporation is being considered, unless the corporation elects to proceed under section 7.

(d) As used hereinafter in this Act, the term "price-dominant corporation" means a corporation currently so designated under this section.

NOTICE OF PROPOSED PRICE INCREASE: NOTICE PERIOD

SEC. (a) No price-dominant corporation may increase the price of any product within any product category in which it is price-dominant unless (1) it has filed a notice of proposed price increase under this section, and (2) either (A) the notice period has expired, or (B) the corporation elects to proceed under section 7.

(b) The notice of proposed price increase shall be filed with the Board. It shall describe the product affected and shall set forth all data which the corporation considers pertinent to the increase. The name of the corporation, a brief description of the products, the magnitude of the proposed increase, and the date of filing shall be promptly published in the Federal Register. Any notice filed with the Board under this section, or a copy thereof, shall be available for inspection and copying by members of the public.

(c) (1) The notice period begins on the date on which the notice is filed pursuant to this section, and ends on the sixtieth day thereafter, unless the Board permits or prescribes a different period, which, except as provided in paragraph (2), shall in no event exceed 120 days.

(2) The Board may suspend the running of the notice period at such times as the Board determines that a price-dominant corporation subject to such period is needlessly delaying its participation in connection with any investigation conducted by the Board with respect to a proposed price increase.

EMERGENCY PRICE INCREASES

SEC. 7. (a) A corporation my file with the Board

(1) during the sixty-day period referred to in section 5(c),

(2) at the time it files its notice under section 6, or

(3) at any time after it files its notice under section 6

a statement that an increase in production costs creates an emergency which requires that a proposed price increase be effective on a date set forth in the statement prior to the expiration of such sixty-day period or the expiration of the notice period, as the case may be. Subject to the liability created under subsection (b) of this section, the corporation may effectuate the price increase in accordance with the statement.

(b) In any case in which a statement is filed under subsection (a) of this section, the Board shall, in addition to its findings under section 12 (if applicable), make and publish a finding as to whether such an emergency in fact exists, and if so, whether the price increase was in excess of that required by the emergency, and the amount of the excess, if any. If the Board finds that such an excess in fact exists, the corporation shall be liable to each consumer-purchaser in an amount equal to three times the excess applicable of the purchases of that purchaser prior to the expiration of such sixty-day period or the notice period, whichever applies, except that where the identity of any consumer-purchaser is not reasonably ascertainable, the liability to that purchaser otherwise created under this section shall exist in favor of the United States.

NOTICE OF PROBABLE DESIRABILITY OF PRICE DECREASE

SEC. 8. Whenever, in the judgment of the Consumer Counsel, there is reason to believe that the prices of one or more products or lines thereof of any price-dominant corporation should be reduced, the Consumer Counsel may serve notice on the corporation to that effect, specifiying the products or lines thereof. The Consumer Counsel shall file a copy of the notice with the Board, and such notices shall be open for inspection by the public.

HEARINGS

SEC. 9. (a) Promptly upon the filing with the Board of any notice under section 6 or section 8 the Board shall determine and publish in the Federal Register a date or dates for hearings thereon, and shall hold such hearings unless the question becomes moot by reason for the corporation's rescinding its proposed price increases or announcing price decreases in amounts satisfactory to the Consumer Counsel.

(b) The purpose of any hearing under this section shall be to adduce for the benefit of the public the facts bearing on proposed or actual prices of products of price-dominant corporations. All testimony taken at such hearings shall be under oath.

(c) The price-dominant corporation which is the subject of the notice under section 6 or section 8 shall appear as a party at any hearing under this section. At least one principal officer of such corporation shall appear on behalf of the corporation. Whenever a price-dominant corporation contends that a proposed price increase, or a refusal to institute a price decrease, would be necessary as a result of its granting the demands of one or more unions, those unions shall be parties to the hearing.

(d) With the permission of the Board, labor unions, consumer organizations, corporations purchasing products whose prices are the subject of the hearings, and interested Federal, State, and local governmental agencies may appear by their authorized representatives as voluntary witnesses at any hearing under this Act. Any such witness shall be subject to cross-examination and, with the permission of the Consumer Counsel, shall be permitted to cross-examine witnesses for the price-dominant corporation.

(e) It shall be the duty of the Consumer Counsel to represent the public interest at all hearings under this section.

(f) All hearings under this section shall be open to the public, the press, radio, and television, except that closed hearings may be held when the Board finds it necessary to protect competitive secrets.

(g) (1) If the Board, with the consent of the Consumer Counsel and after a reasonable time has been permitted for all interested parties to examine pertinent data, determines that a hearing is not required to carry out the purposes of this Act, the Board may waive a hearing under this section. In any case in which a hearing is waived under this section, the Board shall state in writing its reasons for so doing.

(2) In any case in which a hearing is waived under this section, the notice period, if applicable, shall be held and considered to have expired and any price increase with respect to which such notice period applied may be placed in effect.

OBTAINING OFFICIAL DATA

SEC. 10. The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act.

SUBPENAS

SEC. 11. (a) The Board, or any member thereof, shall, upon application of the Consumer Council or of any party to a hearing who is a party pursuant to section 9(c), or on its own motion, forthwith issue to the applicant subpenas requiring the attendance and testimony of witnesses or the production of any evidence in such hearing requested in such application. Within five days after the service of a subpena on any person requiring the production of any evidence in his possession or under his control, such person may petition the Board to revoke, and the Board shall revoke, such subpena if in its opinion the evidence whose production is required does not relate to the subject matter of the hearing, or if in its opinion the subpena does not prescribe with sufficient particularity the evidence whose production is required. Any member of the Board, or any agent or agency designated by the Board for such purposes may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any territory or possession of the United States at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpena issued under this Act, any district court of the United States for any territory or possession of the United States, within the jurisdiction wherein the hearing is carried on or within the jurisdiction wherein the person charged with contumacy or refusal to obey is found, or resides, or transacts business, upon application by the Board, shall have jurisdiction to issue to such person an order requiring such person to appear before the Board, its members, agents, or agency, there to produce evidence if so ordered, or there to give testimony touching the subject matter of the hearing; and any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(c) The several departments and agencies of the Federal Government shall furnish the Board, upon its request, all records, papers, and information relating to the subject matter of any hearing before the Board.

FINDINGS

SEC. 12. The Consumer Counsel and each party appearing pursuant to section 9(c) or 9(d) at any hearing held under section 9 may submit to the Board a statement of its contentions as to matters of fact which it deems relevant to an evaluation of the jus-

tification for or desirability of the price action which was the subject of the hearing. The Board shall determine what matters of fact it deems relevant to that action, and shall make and publish prior to the expiration of the notice period its findings of fact with respect to those matters.

CRIMINAL PENALTY FOR FAILURE TO GIVE NOTICE

SEC. 13. Except as provided in section 7, any price-dominant corporation which sells any products on which it has effected a price increase with respect to which a notice is required to be given pursuant to section 6 without giving such notice, or prior to the expiration of the notice period, shall be fined not less than one but not more than three times the amount of the unit price increase multiplied by the number of units sold at the increased price.

RULES AND REGULATIONS

SEC. 14. The Board shall prescribe such rules and regulations as may be necessary for the carrying out of this Act.

SALARIES

SEC. 15. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(55) Chairman, Price-Wage Review Board."

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(93) Consumer Counsel, Price-Wage Review Board.

"(94) Members, Price-Wage Review Board."

APPROPRIATIONS

SEC. 16. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

BUSING—THE WORST PROBLEM BEFORE THE SCHOOLS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I doubt seriously that any issue now before the American public is more emotion laden or has more potential for destruction of community stability than forced busing of America's schoolchildren. It was mandated by the courts—despite recent denials—and these rulings have in effect taken it out of the hands of the lawmakers and the school executives. The result has been to create one of the greatest social and educational crises of our times. It is serving to destroy the neighborhood school system which we recognize as one of the basic foundations of America's greatness. The present situation must be resolved outside the courts. The Supreme Court apparently is trapped in the quicksands of its own confusion. It has substituted race-mixing as the goal for the Nation's schools rather than education, and in doing so, lost sight of the very purpose for which schools exist. Forced busing compounds the problems of education and makes it almost impossible for school heads to return to sound and effective education as the real goal of the schools.

The need to obtain relief is paramount. In Alabama and in Mississippi, the Governors have attempted to achieve this by State laws to negate the busing requirement. This will have popular appeal but there is little probability of lasting accomplishment. The Federal courts will be quick to slap down this effort for self-determination. It should be possible to solve the problem through a constitutional amendment. A number of proposals to accomplish this are pending in Congress. Most of them are simple in wording and meaning, and they are intended to return the operation of the schools to locally elected officials and to take social experimentation out of the schools. I am one of the sponsors of proposed constitutional amendments.

Sadly, I must admit that we are far from passage of such proposals. Congress has not yet received a clear message from the people on the need to end forced busing. In those districts where the pinch has been felt, the Congressmen have been very fully apprised of the feelings of their constituents. However, the protest is not yet general. In consequence, the committees of Congress, both House and Senate, have refused to act. The administration, while purporting to oppose forced busing has made no visible effort to obtain the passage of a constitutional amendment to bring this abominable practice to an end. Until there is more vigorous expression from the people back home, there is little likelihood that Congress or the administration will take the necessary action to place the question of busing directly before the people so that it can be resolved once and for all. The tide is running for a referendum, but more work must be done at the local level to impress upon those in government the dissatisfaction of the American public with this unconscionable requirement which has been thrust upon our children and our schools.

In forced busing the children lose, the schools lose, and the Nation loses. The parents and the school officials are frustrated but they are not helpless. There is a way to get action if they want it enough.

CHARLES RANGEL'S ALL-OUT FIGHT AGAINST DRUGS BEGINNING TO PAY OFF

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, one of our colleagues who happens to be a friend has established himself in the less than a year that he has been in Congress as one of the foremost fighters against drug addiction.

I have known CHARLES RANGEL so many years that it came as no surprise to me that he would quickly, because of his expertise, ability, and commitment in doing something major to stop the importation of heroin into the United States, become one of the leaders in this crucial fight.

I was pleased today to read in the New York Times an article by Richard L. Madden bringing to the attention of the American public CHARLES RANGEL'S struggle which met with great success when the House recently adopted a bill which permits the President to cut off economic and military aid to foreign governments refusing to act against illegal drug trade taking place within their respective countries.

I believe that the passage of that bill and the Turkish Government's having now agreed to end the growing of the opium poppy is in large measure due to our colleague's leadership.

I am appending the New York Times article which describes in more detail CHARLES RANGEL'S efforts and ultimate success in this matter. As Congressman RANGEL points out, this is a continuous battle and he will not rest nor should anyone of us until we end the smuggling of heroin into our country and the dire effects drug addiction has had and is having upon the estimated 300,000 heroin drug addicts in the United States.

The article follows:

[From the New York Times, Sept. 13, 1971]

RANGEL FINDING ALL-OUT FIGHT AGAINST DRUGS BEGINNING TO PAY OFF

(By Richard L. Madden)

WASHINGTON.—Representative Charles B. Rangel was surprised when President Nixon telephoned him a few weeks ago, but not nearly so excited as his secretary, who exclaimed to the rest of the Rangel office: "I just had the President of the United States on 'hold'!"

It was a bit unusual. The President probably does not call up freshmen members of Congress every day, particularly one who is a Democrat and a black from Harlem.

"My grandfather wouldn't believe I got a call from the President of the United States," Mr. Rangel recalls telling Mr. Nixon.

"My grandfather wouldn't believe I made this call," he said the President replied.

In any case, Mr. Nixon was extending a bit of recognition to the caucus of the 13 black Representatives in the House (Mr. Rangel is secretary of the caucus) and to the narcotics issue that has dominated Mr. Rangel's activities since he displaced Adam Clayton Powell as the Representative from Harlem at the beginning of this year.

Mr. Nixon's call was to give advance word to him and to the black caucus that Turkey had agreed to eliminate within a year her production of opium poppies, which are said to account for nearly two-thirds of the illegal heroin reaching the United States.

To Mr. Rangel—the 41-year-old former Assemblyman and the man who beat Mr. Powell in the Democratic primary last year—the call from the President was perhaps one more example of what he calls the "strange coalitions" he has found since coming to Congress in January and concentrating most of his attention on the drug problem.

The other day in New York, as he sat in his office on West 125th Street overlooking the skeleton of the State Office Building going up across the street, Mr. Rangel said:

"Sure, when you come from a district like Central Harlem, you should be involved with such things as housing, education and health. But everything like that that I would concern myself with has been corrupted either physically or morally by the drug addiction problem."

The effort, he said, is beginning to show a few results, with even Southern Democrats starting to show concern about the problem of the returning veterans from Vietnam who are addicts.

"Damn it," Mr. Rangel exclaimed, "they're going to have to answer their supporters. The veterans are coming back to Mississippi and Alabama and Georgia, and they're going to be mugging the farmers. It's no longer just Harlem's problem."

One of Mr. Rangel's proposals would have cut off economic aid to foreign governments

that refused to act against the illegal drug trade. Senator James L. Buckley, Conservative-Republican from New York, proposed a similar idea.

Illustrating the problems a freshman has in getting legislation adopted, he said when the foreign-aid authorization bill got to the House floor last month, a more senior House member, Representative John S. Monagan, Connecticut Democrat, won approval of a modified version. It would have authorized the President to cut aid to any country that failed to take steps to control drugs transported through its territory.

"Had I been more forceful," Mr. Rangel said, "I might have gotten a chance to offer my amendment, but it was still a good day for me."

PRODDING FRANCE

His next effort, he said, will be to prod the Government into taking stronger efforts to get France to curb the processing of heroin before it is smuggled into the United States. If necessary, he added, he is prepared "to organize a national boycott of all French imports."

Mr. Powell, who spent 12 terms in the House (not counting the two years he was excluded), was regarded as something of an institution in Harlem until Mr. Rangel upset him in the primary last year by 150 votes.

Mr. Rangel, a stocky, affable high-school dropout who became a decorated infantryman in Korea and returned to New York to earn a law degree and to become an assistant United States attorney—has spent considerable time being visible in his district since his election to the House.

His absentee record in the early months of this year was high. Of the first 160 rollcall or recorded teller votes in the House up to the August recess, he was listed as absent on 53 votes, or about one-third the time.

CONCEDES A RISK

He acknowledged that missing some votes was "a political risk," but he felt he had to spend extra time at the outset in his district to "solidify my base." His primary victory margin was narrow and he was not too well known outside his former Assembly district.

Mr. Rangel's name also cropped up in newspaper accounts of the municipal loan program, which has been under investigation by New York City authorities. The Representative called a press conference at the end of July to deny reports that he had improperly received a loan to rehabilitate the building in which he lives at 74 West 132d Street.

He said the loan was made in 1965 when he was "an unpaid district leader with a fledgling law practice" and thus was qualified for a low-income loan.

In the shifting alliances of Harlem politics, where this year's running-mate may be next year's primary opponent, Mr. Rangel has sought to establish regular meetings on community problems with state legislators and City Councilmen from the Harlem area. "It's been working," he said.

He has been doing some campaigning for Assemblyman Frank G. Rossetti, the New York County Democratic leader, who is facing a primary fight for district leader in part of the Harlem area.

Recalling a campaign appearance the other night, Mr. Rangel declared:

"I said I would be a millionaire if I had a dollar for every argument I had with Frank Rossetti, but at least I could always find Frank Rossetti to argue with him."

PERSONAL EXPLANATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on Thursday, September 9, I was returning from a trip I made to Israel during the recess, and I was therefore unable to be present for the vote on H.R. 9727.

Had I been present, I would have voted "yea" on rollcall 251, the vote to pass H.R. 9727, the Marine Protection, Research, and Sanctuaries Act of 1971.

I am pleased to note that this bill passed by a vote of 304 to 3.

HUD REPORT UPHOLDS BANKING AND CURRENCY COMMITTEE ON SECTION 235 HOUSING PROGRAM

(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, the Department of Housing and Urban Development assisted by the General Accounting Office recently completed a nationwide study and survey of the quality of the houses that had been sold under the low- and moderate-income section 235 housing program. The results of the survey are shocking. They confirm the major findings made by the staff of the Committee on Banking and Currency last year.

BACKGROUND

Section 235 of the 1968 Housing Act provided an opportunity for the first time to many families of low- and moderate-income to own their own home. The Federal Housing Administration was given the major responsibility of administering the program.

Last summer the committee looked into the operation of the program after receiving many complaints from citizen groups, legal aid societies, and individuals about the quality and price of some of the housing sold under the program. These complaints and the staff findings of the administration of the program in Washington, D.C., together with cases uncovered by the House Select Committee on Crime in Philadelphia were submitted to HUD in hopes that a thorough review of the program would be made.

HUD's response was very disappointing. Instead of a thorough review, HUD limited itself to a review of the specific complaints in Washington and Philadelphia. While the review of the program in Washington pointed out the need for some improvement, the Philadelphia review, which was conducted by some of the same field personnel who were responsible for approving these homes, completely exonerated its actions.

COMMITTEE INVESTIGATIONS

Because of the limited nature of the response, and of additional complaints received, the matter was reconsidered by the committee on September 29, 1970, and by unanimous vote of 35 to 0, instructed the staff to make further inquiry into abuses of low- and moderate-income housing programs.

The staff investigation, which covered 10 major cities across the country, revealed numerous examples of substandard and defective housing being sold at highly inflated prices as well as other abuses.

The committee met with Secretary Romney and FHA Administrator Gulledge on December 16 and went over the details of the staff investigation. The committee released its report which included Secretary Romney's testimony on January 6.

The report charged that—

The Department of Housing and Urban Development and its Federal Housing Administration may be well on its way toward insuring itself into a national housing scandal.

It went on to state:

FHA has allowed real estate speculation of the worst type to go on in the 235 program and has virtually turned its back to these practices.

It further stated:

The construction of these houses is of the cheapest type of building materials; and, instead of buying a home, people purchasing these houses are buying a disaster.

At that time, Secretary Romney conducted a press conference in which he described the committee report as "inaccurate, misleading, and very incomplete." To his credit, however, Secretary Romney, 8 days later, changed his position somewhat and stated to the press that—

It is apparent that abuses are more prevalent than had previously been evident.

HUD INVESTIGATION

Secretary Romney then announced suspension of the FHA 235 program as it relates to existing houses and launched an investigation within HUD. It is the results of this investigation which have recently been released.

The investigation which was made from a scientifically selected sample of houses across the country found that 42.7 percent of the existing houses insured under the program had significant deficiencies which were potential hazards to the occupant's health and safety, and other matters which were so severe that the conditions should have been repaired before the house was insured.

The investigation of new houses sold under the program, houses which require periodic inspections by FHA as they are being constructed and then final approval by FHA before they can be sold, found that 10.9 percent had significant deficiencies which were potential hazards to the occupant's health and safety. An additional 14.8 percent had evidence of poor workmanship or materials, making a total of 25.7 percent of all new houses sold under the program which did not meet the basic requirements.

OTHER DEVELOPMENTS

Since the committee's investigation began, grand juries have indicted over a dozen people who had victimized unsuspecting and often unsophisticated home buyers because of the laxness in administration of the program. At least one FHA appraiser has been indicted for bribery. Several other FHA personnel have been either suspended or fired. Many cases have been referred to the FBI for investigation and it is my understanding that some of these are now un-

der grand jury consideration. The mayor of Washington, D.C., recently announced after a lengthy investigation of his own, that no FHA or VA insured house could be sold in the District until it had been inspected for deficiencies by one of the District's own housing inspectors.

HUD has issued new guidelines and procedures concerning the sale and insuring of these houses. It has instituted retraining programs for many of its appraisers and inspectors. It is my fervent hope that these steps will prevent any further occurrence of abuses in our country's housing programs. It is also my hope, and I strongly urge HUD, to make a strong and sincere effort to see that previous mistakes and wrongdoings are corrected and that every home buyer who has been victimized, because of the Department's earlier mistakes be made whole.

NUMBER 200 FOR THE "BEAR"

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

Mr. FLOWERS. Mr. Speaker, although college football is over 100 years old, up until several days ago only five men had coached teams to as many as 200 victories. Now there are six with such a record. Coach Paul W. "Bear" Bryant was presented win number 200 when his underdog University of Alabama team defeated the highly ranked Trojans of Southern California in Los Angeles by the score of 17 to 10 last Friday night.

Named "Coach of the Decade" of the 1960's when his Crimson Tide won three national championships, could there be more of the same in the offing this 1971 season?

In any event, Mr. Speaker, I am happy to bring this outstanding record of accomplishment to the attention of the House, and to offer my congratulations to coach Bryant and his staff and the entire Alabama team as well.

MILITARY ASSISTANCE TO GREECE

(Mr. BOW asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BOW. Mr. Speaker, on Thursday I spoke of the dissatisfaction of Americans of Greek ancestry and of some leading American political analysts with the negative action of the House of Representatives when it endeavored, in the foreign aid bill, to prohibit military assistance to Greece. I submitted the resolution on the subject by the Order of Ahepa and an editorial by Henry J. Taylor.

As I stated at that time, these expressions support my own feelings about this amendment. I have grave misgivings as to the wisdom of it both in relationship to national security and international harmony, and the implications of interference in the internal affairs of another nation.

Today I should like to offer additional supportive material including a resolution by the board of trustees of the Society of Castorians of New York and an editorial by William L. Buckley, a resolution of the Third Annual Heritage Groups as reported by the Washington New Approach, and a news release by the American Legion.

The items follow:

RESOLUTION

The Board of Trustees of the Society of Castorians of New York "OMONOIA", having been called into session on the 1st of September 1971, discussed in detail the question of military aid to Greece and whereas it is with great sorrow that it has followed the actions of certain members of Congress who asked for the discontinuance of the military aid to Greece, faithful ally of the United States and of all the Western World.

It is with surprise that it has learned of these acts of political leaders of our great country, protector of the free world who naively believe that they will thus be able to impose their own views about democracy; in reality what they will only attain is the weakening of the NATO alliance; the strengthening of the foes of Democracy and Civilization, and will imperil still more that part of the Free World which rivers of blood have thus far kept free and unmolested by the red miasma.

Now therefore the Board of Trustees unanimously decides

(1) to address an appeal to the leaders of the American Nation to reexamine this delicate question and think profoundly on the consequences before casting their final vote.

(2) Send a letter to the U.S. Senate urging the Senators to vote for the continuation of military aid to Greece.

(3) Ask the members of the Castorian Society and all other Americans of Greek ancestry to write to their Senators accordingly.

(4) Consult with other Societies of our brethren of Greek descent to the same end.

(5) Publish this present resolution in the Press.

[From the Washington New Approach, July 1971]

FOREIGN POLICY RESOLUTION SUBMITTED BY DELEGATES TO REPUBLICAN NATIONALITIES COUNCIL

We, the delegates to the Third Annual Heritage Groups (Nationalities) Conference, assembled in Washington, May 21–23, 1971, adopt the following resolutions with regard to U.S. policies affecting Europe.

ON GREECE

Whereas, Greece is a vital cornerstone of defense of freedom in the Eastern Mediterranean; and

Whereas, Greece is an important member of the North Atlantic Treaty Organization; and

Whereas, Greece has proved to be a loyal and trusted friend of the United States and a staunch supporter of NATO

Be it resolved that all necessary military assistance be given to Greece.

LEGION OBJECTS TO CUT IN MILITARY AID TO GREECE

WASHINGTON, D.C., July 22.—It has long been the policy of The American Legion to endorse a strong military and naval posture in the Mediterranean to assure the safety of the NATO flank.

For this reason, we must heartily disagree with the position taken by the House Foreign Affairs Committee to cut off military assistance funds for Greece—most certainly one of our staunchest Mediterranean allies—or to restrict those funds to 1970–71 levels if President Nixon determines such aid is in the national security interest of the United States.

While we would hope for an early return for parliamentary rule in Greece, we firmly believe the chances for this happening would be jeopardized rather than enhanced should military aid funds be cut off. There is no question about the strategic importance of Greece and its armed forces to the NATO alliance and our own security.

Without bases in Greece, securely protected by capable Greek military forces, the southern shield of NATO comes into question as does U.S. ability to influence events in the troubled Middle East.

Greece helped bring American power into play last September to stabilize the Jordan-Palestinian-Syrian conflict that threatened to erupt into another general Middle East war. Jordan's position appears precarious once again.

The importance of Greece in carrying out the United States, clear moral commitment to the survival of Israel also is evident.

For the past three years The American Legion in national convention has overwhelmingly endorsed military assistance for the Greek nation.

Each of these endorsements has been accompanied by the hope that the Greek government will undertake an orderly return to parliamentary rule. We share the Foreign Affairs Committee's concern for democracy, but we also recognize that without security the prospect of parliamentary rule in Greece is discouraged, not encouraged.

[From the Washington Evening Star, June 8, 1971]

SOME THOUGHTS ON WITHHOLDING AID TO GREECE

(By William F. Buckley, Jr.)

The vote by the House to strip Greece of $118 million in military aid asserts the continuing intellectual disarray of our foreign policy makers. It goes without saying that anyone who asks himself, "Who voted to suspend aid, who voted to give it?" could compose his answers—without cheating—by listing the anti-Greeks from among those congressmen most enthusiastic about our detente with Red China.

It is not exaggerating to suppose that if a motion were made to pass along the money to Red China instead of Greece, a substantial vote in favor of the measure would be cast precisely by those who castigate the colonels for their undemocratic practices.

It is true that in many countries we dispense "military aid" because it is simpler to do than to dispense mere aid. Easier to get by Congress; easier, in general, to transact. So that many have become accustomed to the notion that military aid is just plain "aid"; that the Greeks have now been punished by being deprived of power plants, or rolling stock, or fertilizer.

But in fact the Greek military commitment is very real. It is an important member of NATO, and an associate member of the Common Market. It was Greece through which the Russians struck the first post-war salient. We won that one, thanks largely to the defection of Yugoslavia, which at a critical point closed the border to the Soviets' provisioning of the insurrectionists. Even so, there was a bloody war.

Greece has been for the whole of this century a bloody forum for democracy. There have been eight successful coups, three civil wars: And the menace of communism hangs over the country, and may be imminent if, after Tito dies, the Russians elect to extend the Brezhnev Doctrine to occupy Yugoslavia. If they do, and go on to threaten Greece, the moment of truth for NATO—and for the West—will have arrived.

Concerning the internal situation in Greece, it is plainly a fact that Colonel Papadopoulos has found ruling without a parliament, and with a constitution kept in the

locker, for inspection by political scientists of professional curiosity, altogether comfortable. He appears to be in no hurry at all to implement the provisions of the constitution, notwithstanding that he went to great pains to have it ratified over a year ago.

Paradoxically, he is not in a position to plead, in extenuation, that unruly elements within Greece prevent him from restoring a measure of liberty. In fact, although there are pockets of resistance in Athens, the colonel is, one gathers, enormously popular. I say this because not long ago when the Greek soccer team beat the Yugoslav team the Athenian multitudes, carried away with the delight of it all, stormed the colonel's heavily guarded residence, easily overwhelmed the guards, and carried Papadopoulos on their shoulders through the streets of Athens. Not the kind of thing that is done to a ruler despised by the masses.

Granted, the demonstration is no certification of Papadopoulos's virtue. But the point is that there are fewer and fewer bases for the stability of the Mediterranean, and Greece is one of them—perhaps an irreplaceable one. We have in the Mediterranean a fleet that is generally considered to be indispensable to the security of the area. And without Greece, the usefulness of the fleet is gravely impaired.

These arguments will no doubt strike the moralists as evasive of the moral point, and that indeed is what they are, unless one agrees that there is a larger moral point to be made in defense of the preservation of such freedoms as survive in the Mediterranean.

In any event, the action by the House of Representatives underscores the failure of Congress to understand the importance of keeping out of the way of internal arrangements of other countries.

Senator Fulbright put it very well a few years ago when he said that the United States, notwithstanding how noxious it finds the domestic policies of a particular nation, has no special quarrel with that nation unless it undertakes to export its government. Greece is not attempting any such thing.

We, by our negative action, are attempting to export our own forms of government in Greece. Granted we think them superior—on this point I am myself far more emphatic than the gentlemen who voted against Greece—but we are not in a position to know the internal Greek situation. So that, not even to save $118 million (nobody cares about the economy), we are reestablishing our position as a Wilsonian moralist.

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. Despite its smaller size, the United States operates twice as many freight cars which handle three times the tonnage of those on Soviet railroads.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ESHLEMAN (at the request of Mr. GERALD R. FORD), for today and the balance of the week, on account of medically ordered recuperation.

Mr. CORMAN, for Monday, September 13, on account of official business.

Mr. LENT (at the request of Mr. GERALD R. FORD), for today, on account of official business.

Mr. TERRY (at the request of Mr. GERALD R. FORD), for today and tomorrow, on account of official business.

Mr. YOUNG of Florida (at the request of Mr. GERALD R. FORD), for September 13 and 14, on account of official business.

Mr. MCKEVITT at the request of Mr. GERALD R. FORD), for today, on account of official business as member of House Select Committee on Small Business.

Mr. MURPHY of Illinois, for Wednesday, Thursday, and Friday, September 15, 16, and 17, on account of wife's operation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARCHER) and to revise and extend their remarks and include extraneous matter:)

Mr. ARCHER, for 10 minutes, on September 14.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. DAVIS of South Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 10 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. MONTGOMERY, for 60 minutes, on September 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES in five instances.

Mr. MCCLORY, immediately following the remarks of Mr. RAILSBACK during general debate in the Committee of the Whole today.

Mr. YATES, following the remarks of Mr. MIKVA in the Committee of the Whole on H.R. 234.

Mr. RANDALL in two instances and to include extraneous matter.

(The following Members (at the request of Mr. ARCHER) and to include extraneous matter:)

Mr. PETTIS.
Mr. KUYKENDALL.
Mr. HUNT in three instances.
Mr. ZWACH.
Mr. RUTH in five instances.
Mr. FRENZEL.
Mr. SHRIVER in two instances.
Mr. MICHEL in two instances.
Mr. SCHWENGEL in three instances.
Mr. GOLDWATER in two instances.
Mr. WHALEN.
Mr. SKUBITZ.
Mr. SCHMITZ in four instances.
Mr. MIZELL in three instances.
Mr. SNYDER in two instances.
Mr. HORTON.
Mr. KEMP.
Mr. DUNCAN.
Mr. STEELE in 10 instances.
Mr. PRICE of Texas.
Mr. BOW.

(The following Members (at the request of Mr. DAVIS of South Carolina) and to include extraneous matter:)

Mr. REUSS in six instances.
Mr. FISHER in four instances.
Mr. DINGELL in three instances.
Mr. SISK in five instances.
Mr. HARRINGTON in three instances.
Mr. BEGICH in five instances.
Mr. ROYBAL in 10 instances.
Mrs. GRIFFITHS in two instances.
Mr. CLAY in six instances.
Mr. HÉBERT in four instances.
Mr. ANNUNZIO in two instances.
Mr. STUBBLEFIELD in two instances.
Mr. RARICK in three instances.
Mr. DRINAN.
Mrs. HICKS of Massachusetts.
Mr. HAMILTON in two instances.
Mr. WALDIE in six instances.
Mr. WILLIAM D. FORD in two instances.
Mr. GONZALEZ in two instances.
Mr. ADAMS.
Mr. GALIFIANAKIS in two instances.
Mr. PICKLE in five instances.
Mr. MIKVA in eight instances.
Mr. LEGGETT.
Mr. LONG of Maryland.
Mr. BOLAND.
Mr. ASPIN in 10 instances.
Mr. DOW in two instances.
Mr. PATTEN.
Mr. DELLUMS in eight instances.
Mr. BRINKLEY in two instances.
Mr. ROONEY of Pennsylvania in two instances.
Mr. ROSENTHAL in five instances.
Mr. HUNGATE in two instances.
Mr. GIAIMO in 10 instances.
Mr. DULSKI in six instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 942. An act to establish a Commission on Security and Safety of Cargo, to the Committee on Interstate and Foreign Commerce.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 850. Joint resolution authorizing the Honorable Carl Albert, Speaker of the House of Representatives, to accept and wear The Ancient Order of Sikatuna (Rank of Datu), an award conferred by the President of the Philippines.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 850. A resolution authorizing the Honorable Carl Albert, Speaker of the House of Representatives, to accept and wear the Ancient Order of Sikatuna (Rank of Datu), an award conferred by the President of the Philippines.

ANNOUNCEMENT OF FUNERAL SERVICES FOR THE LATE HONORABLE WINSTON L. PROUTY

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

Mr. STAFFORD. Mr. Speaker, as I said I would earlier this afternoon when I announced the tragic passing of Vermont's junior Senator, WINSTON L. PROUTY, formerly a Member of this House for four terms, I am now prepared to advise the membership of the House of the arrangements for memorial services and so on in connection with the late Senator.

The funeral arrangements are in the hands of Joseph Gawler Sons, Inc., of Wisconsin Avenue and Harrison Street NW.

Visiting hours today, September 13, at Gawler's Funeral Home at that address, Wisconsin Avenue and Harrison Street NW., are from 5 to 8 p.m.

Tomorrow there will be memorial services in Washington, D.C., at the Georgetown Presbyterian Church, 3115 P Street NW., at 2 p.m., with the Rev. Edward L. R. Elson, Senate Chaplain, presiding.

Those wishing to attend should know that a delegation from Congress will leave the Senate stairs for the services at 1:15 p.m.

On Wednesday, September 15, the congressional committee will depart the Senate stairs of the Capitol at 8:15 a.m. and planes will leave Andrews Air Force Base at 9 a.m. for a flight to the Burlington, Vt., airport, from which transportation will be provided for memorial services at the United Church of Newport at Newport, Vt., at 2 o'clock.

Interment at Newport will follow immediately after the church services, and planes will return to Washington in time to be back at Andrews Air Force Base at 7:15 p.m.

May I also inform my colleagues of the House that the family requests that in lieu of flowers contributions be made to the Winston L. Prouty Memorial Fund for the North Country Hospital and Health Center, Newport, Vt. 05855.

THE LATE HONORABLE WINSTON L. PROUTY

Mr. STAFFORD. Mr. Speaker, I offer a resolution.

The Clerk read the resolution as follows:

H. RES. 592

Resolved, That the House has heard with profound sorrow of the death of the Honorable Winston L. Prouty, a Senator of the United States from the State of Vermont.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

Resolved, That a committee of Members be appointed on the part of the House to join the committee appointed on the part of the Senate to attend the funeral.

The resolutions were agreed to.

The SPEAKER. The Chair appoints as members of the Funeral Committee the following Members on the part of the House: Mr. STAFFORD and Mr. CHAMBERLAIN.

The Clerk will report the remaining resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect to the memory of the deceased, the House do now adjourn.

The resolution was agreed to.

ADJOURNMENT

Accordingly (at 5 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Tuesday, September 14, 1971, 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:

1131. A letter from the Chief of Naval Material, Department of the Navy, transmitting the Annual Report for Fiscal Year 1971 on Department of the Navy research and development procurement actions of $50,000 or more, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

1132. A letter from the Secretary of the Interior, transmitting the sixth annual report on the minerals exploration assistance program, pursuant to 30 U.S.C. 641–646; to the Committee on Interior and Insular Affairs.

1133. A letter from the Administrator of Veterans' Affairs, transmitting two reports for fiscal year 1971 on the sharing of medical facilities and on the exchange of medical information, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

1134. A letter from the Acting Comptroller General of the United States, transmitting a report on economies available by eliminating unnecessary telephone equipment, General Services Administration; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POAGE: Committee on Agriculture. H.R. 9634. A bill to change the name of the "Nebraska National Forest", Niobrara division, to the "Samuel R. McKelvie National Forest"; with an amendment (Rept. No. 92–473). Referred to the House Calendar.

Mr. POAGE: Committee on Agriculture. H.R. 10538. A bill to extend the authority for insuring loans under the Consolidated Farmers Home Administration Act of 1961 Rept. No. 92–474). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONAGAN:

H.R. 10590. A bill to provide for the establishment of an American Council for Private International Communications, Inc., to grant support to the activities of private American organizations engaged in the field of communication with foreign peoples; to the Committee on Foreign Affairs.

By Mr. FAUNTROY (for himself, Mr. BADILLO, Mrs. CHISHOLM, Mr. COLLINS of Illinois, Mr. CONYERS, Mr. DELLUMS, Mr. DIGGS, Mr. EDWARDS of California, Mr. HAWKINS, Mr. MITCHELL, Mr. ROYBAL, and Mr. STOKES):

H.R. 10591. A bill to establish an equal employment opportunity program for the protection of employees of the Library of Congress; to the Committee on House Administration.

By Mr. REUSS:

H.R. 10592. A bill to provide a procedure for the development of facts necessary to the creation of an informed public opinion with respect to price policies pursued by corporations in administered price industries, and for other purposes; to the Committee on Banking and Currency.

By Mr. ANNUNZIO:

H.R. 10593. A bill to amend the Internal Revenue Code of 1954 to permit an exemption, in an amount not exceeding the maximum social security benefit payable in the taxable year involved, for retirement income received by a taxpayer under a public retirement system or under any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 10594. A bill to amend the act of February 28, 1947, as amended, to authorize the Secretary of Agriculture to cooperate with the Republic of Mexico in the control and/or eradication of any communicable disease of animals in order to protect the livestock and poultry industries of the United States; to the Committee on Agriculture.

By Mr. BROYHILL of Virginia:

H.R. 10595. A bill to restore to the Custis-Lee Mansion located in the Arlington National Cemetery, Arlington, Va., its original historical name, followed by the explanatory memorial phrase, so that it shall be known as Arlington House—The Robert E. Lee Memorial; to the Committee on House Administration.

By Mr. DIGGS:

H.R. 10596. A bill to modernize the duties of the clerk of the Superior Court of the District of Columbia with respect to the issuing of marriage licenses; to the Committee on the District of Columbia.

By Mr. EDWARDS of Alabama:

H.R. 10597. A bill to provide that the reservoir formed by the lock and dam referred to as the "Jones Bluff lock and dam" on the Alabama River, Ala., shall hereafter be known as the Robert F. Henry lock and dam; to the Committee on Public Works.

By Mr. FAUNTROY:

H.R. 10598. A bill to amend the District of Columbia Election Act, and for other purposes; to the Committee on the District of Columbia.

By Mr. HALPERN:

H.R. 10599. A bill to amend the Food Stamp Act of 1964 to provide food stamps to certain narcotics addicts and certain organizations and institutions conducting drug treatment and rehabilitation programs for narcotics addicts, and to authorize certain narcotics addicts to purchase meals with food stamps; to the Committee on Agriculture.

By Mr. HALPERN (for himself, Mr. MOSS, Mr. MORSE, Mrs. HICKS of Massachusetts, Mr. MAYNE, Mr. FORSYTHE, Mr. HORTON, and Mrs. GRASSO):

H.R. 10600. A bill to protect hobbyists against the reproduction or manufacture of imitation hobby items and to provide additional protections for American hobbyists; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN (for himself, Mr. MADDEN, Mr. MYERS, Mr. SPENCE, Mr. COTTER, Mr. YATRON, Mr. DENHOLM, Mr. MIZELL, Mr. BYRNE of Pennsylvania, and Mr. SARBANES):

H.R. 10601. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence; to the Committee on Ways and Means.

By Mr. HANLEY:

H.R. 10602. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HOGAN:

H.R. 10603. A bill to amend title 38, United States Code, to provide for the payment of tuition, subsistence, and educational assistance allowances on behalf of or to certain eligible veterans pursuing programs of education under chapter 34 of such title, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HOLIFIELD:

H.R. 10604. A bill to amend title II of the Social Security Act to permit the payment of the lump-sum death payment to pay the burial and memorial services expenses and related expenses for an insured individual whose body is unavailable for burial; to the Committee on Ways and Means.

By Mr. JOHNSON of California:

H.R. 10605. A bill to amend section 1681 (b) of title 38, United States Code, to provide for payment of the educational assistance allowance in certain cases where a veteran transfers from one approved educational institution to another educational institution; to the Committee on Veterans' Affairs.

By Mr. JOHNSON of Pennsylvania:

H.R. 10606. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to extend certain financial assistance for construction of waterworks to private corporations; to the Committee on Agriculture.

By Mr. LONG of Maryland:

H.R. 10607. A bill to amend title 23 of the United States Code to authorize construction of exclusive or preferential bicycle lanes, and for other purposes; to the Committee on Public Works.

By Mr. MIKVA (for himself and Mr. MATSUNAGA):

H.R. 10608. A bill to establish and protect the rights of day laborers; to the Committee on Education and Labor.

By Mr. MILLER of Ohio:

H.R. 10609. A bill to amend the Public Service Act to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. MONAGAN (for himself and Mr. FRENZEL):

H.R. 10610. A bill to direct the Administrator of the Environmental Protection Agency to establish and carry out a bottled drinking water control prorgam; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER:

H.R. 10611. A bill to establish the Flagler National Monument; to the Committee on Interior and Insular Affairs.

By Mr. QUILLEN:

H.R. 10612. A bill to amend the Internal Revenue Code of 1954 to provide that an individual may deduct amounts paid for his higher education, or for the higher education of any of his dependents; to the Committee on Ways and Means.

By Mr. SCHMITZ:

H.R. 10613. A bill to amend the National Labor Relations Act to provide additional protection of the rights of employers and employees in connection with labor disputes; to the Committee on Education and Labor.

H.R. 10614. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

By Mr. SCHWENGEL:

H.R. 10615. A bill to amend the Urban Mass Transportation Act of 1964 to waive in certain cases the requirement that assistance provided under that act must be in furtherance of a program for a unified or officially coordinated urban transportation system; to the Committee on Banking and Currency.

H.R. 10616. A bill to amend the Voting Rights Act of 1965; to the Committee on the Judiciary.

H.R. 10617. A bill to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes; to the Committee on Public Works.

By Mr. STEELE:

H.R. 10618. A bill to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan; to the Committee on Armed Services.

By Mr. ULLMAN:

H.R. 10619. A bill relating to mineral resources in lands comprising the Three Sisters Wilderness, Oregon; to the Committee on Interior and Insular Affairs.

By Mr. ADDABBO:

H.R. 10620. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

By Mr. BOW:

H.R. 10621. A bill to amend the Public Health Service Act so as to promote the public health by strengthening the national effort to conquer cancer; to the Committee on Interstate and Foreign Commerce.

By Mr. BRINKLEY:

H.R. 10622. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. FASCELL (by request):

H.R. 10623. A bill to amend section 2 of the act entitled "An act to authorize conclusion of an agreement with Mexico for joint measures for solution of the Lower Rio Grande salinity problem," approved September 19, 1966, to remove the limitation on the annual authorization for costs of operation and maintenance of the drainage conveyance canal constructed thereunder, and for other purposes; to the Committee on Foreign Affairs.

H.R. 10624. A bill to amend section 3 of the act entitled "An act to authorize the conclusion of agreements with Mexico for joint construction, operation, and maintenance of emergency flood control works on the lower Colorado River, in accordance with the provisions of article 13 of the 1944 Water Treaty With Mexico, and for other purposes," approved August 10, 1964, to remove the limitation on the annual authorization for necessary maintenance of emergency flood control works constructed thereunder, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HAYS:

H.R. 10625. A bill to amend the Public Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of Pennsylvania:

H.R. 10626. A bill to amend the Housing Amendments of 1955 to extend certain financial assistance for construction of water works to private corporations; to the Committee on Banking and Currency.

By Mr. KOCH:

H.R. 10627. A bill to amend the Urban Transportation Act of 1964 to authorize certain emergency grants to assure adequate rapid transit and commuter railroad service in urban areas, and for other purposes; to the Committee on Banking and Currency.

By Mr. MAILLIARD:

H.R. 10628. A bill to authorize the Secretary of Housing and Urban Development to establish a national catastrophe insurance program, under the Federal Insurance Administrator, which will enable residential property owners to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from natural perils occurring in the United States; to the Committee on Banking and Currency.

By Mr. RODINO:

H.R. 10629. A bill to extend to hawks, owls, and certain other raptors the protection now accorded to bald and golden eagles; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHWENGEL:

H.R. 10630. A bill to authorize indemnity payments for dairy cattle contaminated with chemicals; to the Committee on Agriculture.

H.R. 10631. A bill to amend the act requiring evidence of certain financial responsibility and establishing minimum standards for certain passenger vessels in order to exempt certain vessels operating on inland rivers; to the Committee on Merchant Marine and Fisheries.

By Mr. SNYDER:

H.R. 10632. A bill to provide that the Consumer Price Index prepared by the Bureau of Labor Statistics shall give appropriate weight to Federal, State, and local taxes; to the Committee on Education and Labor.

By Mr. JAMES V. STANTON:

H.R. 10633. A bill to amend the Public Health Service Act so as to promote the public health by strengthening the national effort to conquer cancer; to the Committee on Interstate and Foreign Commerce.

By Mr. ARCHER:

H.J. Res. 861. Joint resolution to designate the period beginning June 18, 1972, and ending June 24, 1972, as "National Engineering Technicians Week"; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.J. Res. 862. Joint resolution authorizing the President to proclaim the second full week in October each year as "National Legal Secretaries' Court Observance Week"; to the Committee on the Judiciary.

By Mr. SCHWENGEL:

H.J. Res. 863. Joint resolution establishing a commission to consider and formulate plans for a permanent memorial to Herbert Clark Hoover; to the Committee on House Administration.

By Mr. TAYLOR:

H.J. Res. 864. Joint resolution to provide for the establishment of a scientific commission on smoking and health; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORHEAD:

H. Con. Res. 397. Concurrent resolution to relieve the suppression of Soviet Jewry; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEGICH:

H.R. 10634. A bill for the relief of Ruby S. Coyle; to the Committee on the Judiciary.

By Mr. CEDERBERG:

H.R. 10635. A bill for the relief of William E. Baker; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 10636. A bill for the relief of Mrs. Dominga Pettit; to the Committee on the Judiciary.

By Mr. HOGAN:

H.R. 10637. A bill for the relief of James R. Dean; to the Committee on the Judiciary.

By Mr. JOHNSON of California:

H.R. 10638. A bill for the relief of John P. Woodson, his heirs, successors in interest, or assigns; to the Committee on Agriculture.

By Mr. MORSE:

H.R. 10639. A bill for the relief of Antonio Leone, Giuseppa Leone, Francesco Leone, Rosa Leone, Anna Leone, and Antonella Leone; to the Committee on the Judiciary.