Walter L. Strain
Francis T. Sullivan
Michael P. Sullivan
James E. Swab
Carter P. Swenson
Bernace M. Symm
Leonard J. Szafranski, Jr.
Robert C. Tashjian
George H. Taylor III
Charles H. Taylor, Jr.
Richard B. Taylor
John J. Tharp
Jerry R. Thompson
William J. Tirschfield
Frederic L. Tolleson
Robert W. Topping
Edward F. Townley, Jr.
David C. Townsend
James B. Townsend
Everett P. Trader, Jr.
Jerome P. Trehy
Everett L. Tunget
Terry Turner
John T. Tyler
Mario S. Valentini
James H. Vandever
Jan H. Vangorder
Neil R. Vanleeuwen
Fredric J. Vanous
Richard S. Varney
Donald J. Verdon
Peter J. Vogel
William R. Vonharten
Norman H. Vreeland
Paul H. Wagener
Ralph V. Walker, Jr.
Lorin C. Wallace, Jr.
Robert L. Walsh
Alphonse I. Warczakowski
Charles Ward
Lloyd K. Warn
Donald E. Webb
Gerald A. Weiland
Stuart L. Weinerth, Jr.
William M. Whaley
Thomas M. Wheeler
William L. Whelan
Francis V. White, Jr.
Robert E. White
Fred T. Whitman
William W. Widener
Warrend H. Wiedhahn, Jr.
Eric H. Wieler
Martin J. Williams
James W. Willkomm
Donald D. Wilson
Paul A. Wilson, Jr.
Walter M. Winoski
Henry F. Witter
Peter R. Worden
Joseph B. Wuertz
Neal B. Wynn
Walter N. Yanochik
Charles E. Yates
Richard C. Yezzi
Lewis J. Zilka
John T. Zych, Jr.

HOUSE OF REPRESENTATIVES—*Wednesday, September 15, 1971*

The House met at 12 o'clock noon.

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

And Thou shalt do that which is right and good in the sight of the Lord: That it may be well with Thee.—Deuteronomy 6: 18.

Reveal Thyself to us, our Father, as we draw near to Thee in spirit and in truth. We come to receive that uplift of spirit which will enable us to do our duties and to solve our problems ever seeking the good of our country and the best for the people of our land. Help us to see our way more clearly and to walk in it more faithfully.

We are weak, give us strength; we know so little, give us wisdom; we are selfish, make us kind. In all our contacts may we be more understanding and more sympathetic and may Thy kingdom come in all our hearts.

In the spirit of Christ we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Leonard, one of his secretaries.

ACTION TO REPEAL EMERGENCY DETENTION ACT ELEVATES HOUSE TO NEW HEIGHTS

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

Mr. MATSUNAGA. Mr. Speaker, ever since coming to this august body almost 9 years ago, I have been gladdened most by the fact that here in this House I have found great men—men of good will dedicated to promote the welfare of this great Nation and its people.

Yesterday, my admiration and respect for the Members of this body were lifted to even greater heights. Yesterday, by the exercise of considered good judgment on the part of an overwhelming majority of its Members, by an almost unbelievable lopsided vote of 356 to 49, this House acted to repeal the repugnant Emergency Detention Act of 1950. By so doing this House elevated itself to new heights—it struck a real blow for individual freedom.

Mr. Speaker, I take this opportunity to thank my colleagues who joined me in support of H.R. 234. While I find it extremely difficult to single out anyone for special mention, I wish to express my deepest gratitude especially to the gentleman from Wisconsin (Mr. KASTENMEIER), chairman of Subcommittee No. 3 of the Judiciary Committee and a cosponsor of H.R. 234. Without his unwavering support and advice, the legislation would never have passed. To the gentleman from California (Mr. HOLIFIELD) and to the gentleman from Illinois (Mr. MIKVA), the original cosponsors of H.R. 234, go my special thanks. Their wise counsel and stanch support throughout the long struggle to final victory, served as a source of great encouragement to me. To Speaker ALBERT, Majority Leader BOGGS, and Majority Whip O'NEILL, and to the chairman of the Judiciary Committee, the gentleman from New York (Mr. CELLER), I extend my appreciation for their active role in obtaining such a favorable response from the House.

My idealistic image of the Congress was made to appear brighter by the bipartisan support which I received in my effort to obtain passage of the legislation. For their active role on the Republican side, I extend my special thanks to the distinguished minority leader, the gentleman from Michigan (Mr. FORD), to the gentleman from Virginia (Mr. POFF), to the gentleman from Illinois (Mr. ANDERSON), to the gentleman from Illinois (Mr. RAILSBACK), and to the gentleman from Pennsylvania (Mr. BIESTER). Their idealism transcended party lines. Together we have proven to the world that we Americans mean what we say when we say "There is no place for concentration camps in America."

To all my colleagues who joined me: again my heartiest thanks and mahalo.

REPEAL OF EMERGENCY DETENTION ACT

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

Mr. ADAMS. Mr. Speaker, I want to join with the gentleman from Hawaii (Mr. MATSUNAGA) in expressing my gratitude to the Members of the House in voting to repeal the Emergency Detention Act. I also want to express the appreciation of the people in my district, and the people of the United States, to Mr. MATSUNAGA for his untiring efforts in having this bill brought to the floor, and for its passage yesterday. I think the Members of this body should compliment the gentleman from Hawaii for what he has done. We have all been pleased to join in his efforts.

Mr. Speaker, I yield back the balance of my time.

FIFTH ANNUAL REPORT OF NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92–163)

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

To the Congress of the United States:

The Fifth Annual Report of the National Advisory Council on Extension and Continuing Education is submitted herewith.

This Council, authorized by Public Law 89–329, has reviewed the administration and effectiveness of the program authorized by Title I of the Higher Education Act of 1965 and other federally supported extension and continuing education programs.

Several of the Council's proposals are highly commendable, especially those reflecting a concern for innovation and reform in post-secondary education, including the proposed National Foundation for Higher Education, and its recommendation that programs directed to continuing education for adults be coordinated and consolidated.

RICHARD NIXON.

THE WHITE HOUSE, *September 15, 1971.*

FEDERAL-INTERSTATE COMPACT FOR THE HUDSON RIVER BASIN—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 Interior and Insular Affairs:

To the Congress of the United States:

In accordance with section 3 of Public Law 89–605 as amended by Public

Law 91-242, I am pleased to transmit a report by the Secretary of the Interior on the progress which has been achieved in negotiations on a Federal-interstate compact for the Hudson River Basin.

The Secretary of the Interior will continue to work with the States of New Jersey and New York to find a viable method of managing the environmental problems of this significant river basin.

RICHARD NIXON.

THE WHITE HOUSE, *September 15, 1971.*

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 542 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 542

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. 1746) to further promote equal employment opportunities for American workers; all points of order against said bill for failure to comply with the provisions of clause 3, rule XIII, and all points of order against section 11 of said bill for failure to comply with the provisions of clause 4, rule XXI, are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the text of the bill (H.R. 9247) as an amendment in the nature of a substitute for the bill. At the conclusion of the consideration of H.R. 1746 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.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN).

Pending that, Mr. Speaker, I first ask unanimous consent that the gentleman from New York may be permitted to speak out of order for 1 minute.

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

There was no objection.

WELCOME TO DELEGATION FROM THE REPUBLIC OF ITALY

Mr. BIAGGI. Mr. Speaker, on behalf of the other gentlemen from New York (Mr. ADDABBO, Mr. BRASCO, and Mr. MURPHY), the gentleman from Illinois (Mr. ANNUNZIO), the gentlemen from New Jersey (Mr. DANIELS, Mr. MINISH, and Mr. RODINO), the gentlemen from Pennsylvania (Mr. DENT and Mr. VIGORITO), the gentleman and gentlewoman from Connecticut (Mr. GIAIMO and Mrs. GRASSO), the gentlemen from California (Mr. LEGGETT and Mr. MILLER), the gentleman from Massachusetts (Mr. CONTE), the gentleman from Florida (Mr. FASCELL), the gentleman from Kentucky (Mr. MAZZOLI) and the gentleman from Wyoming (Mr. RONCALIO)—all Italian Americans—it is my pleasure to welcome to this Chamber the Ambassador of Italy, His Excellency Egidio Ortona, and his party of distinguished Italian governmental officials. Their presence in the gallery today is a distinct honor to us and to this body.

These gentlemen, who are in this country to study our merchant marine systems and improve United States-Italian relations in that field, are Signore Gioacchino Attaguile, Minister of the Italian Merchant Marine; Hon. Gerardo Bianchi, vice president of the commission for transportation of the Chamber of Deputies; Mr. Nunzio d'Angelo, director general of navigation and maritime traffic; the Honorable Giorgio Guerrini, president of the commission for transportation of the Chamber of Deputies; Signore Pasquale Poerio, vice president of the commission for transportation of the Senate; and Consellor of State Salvatore Zingale.

They are also here with us today to thank Congress on behalf of the Italian people for designating a national holiday in honor of Christopher Columbus, a most distinguished seaman himself. This day will be celebrated for the first time on October 11. It is noteworthy that George Washington is the only other person to have a national holiday in his honor.

While here they visited the Constantino Brumidi corridor in the Senate. This gentleman, whose bust stands in that corridor, has been acclaimed as the Michelangelo of the United States for his magnificent paintings on the ceiling of the rotunda and the many other frescos he executed in the building. They also visited the great bronze doors at the entrance to the rotunda—the Columbus Doors.

Italy and the United States have had a close relationship from the founding days. In the last two decades and particularly during the past years that Ambassador Ortona has so ably represented his country, that bond has grown stronger. His personal friendship with many leading governmental officials has greatly helped the relations of the two countries to develop to a point of mutual pride.

I and my colleagues in Congress are deeply gratified to him for his assistance and cooperation.

Therefore, Mr. Speaker, I would extend my thanks to these distinguished gentlemen from Italy for visiting with us here today and wish them a successful trip and pleasant stay here in America.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 258]

Anderson, Tenn.	Gallagher	Moorhead
Ashley	Gaydos	Murphy, Ill.
Badillo	Goldwater	Murphy, N.Y.
Blackburn	Gray	O'Hara
Blatnik	Gubser	Randall
Celler	Haley	Reid, N.Y.
Chisholm	Hays	Robison, N.Y.
Clark	Hébert	Rooney, Pa.
Clay	Henderson	Scheuer
Collins, Tex.	Holifield	Seiberling
Diggs	Jarman	Stafford
Dwyer	Keith	Stuckey
Edwards, La.	Long, La.	Sullivan
Eshleman	McCloskey	Tiernan
Fish	McEwen	Widnall
Foley	McKay	Wilson, Bob
Ford, William D.	McKinney	Wydler
	Mathias, Calif.	
	Mollohan	

The SPEAKER. On this rollcall, 380 Members have answered to their names, a quorum.

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

Mr. BOLLING. Mr. Speaker, I am not aware of any great controversy over this rule, more or less agreed upon as a way in which to give the two sides of the issue a fair opportunity to present their point of view and then have a decisive vote. The rule does waive points of order against the Ramseyer rule and against section 11 of the bill, which does not comply with clause 4 of rule 21, in that it involves a transfer of funds.

The rule also makes in order consideration without the intervention of any point of order H.R. 9247 as an amendment in the nature of a substitute. Points of order are obviously waived against that. That means that the so-called Erlenborn amendment may be offered and issue will be joined directly. Therefore, Mr. Speaker, I reserve the balance of my time.

Mr. MARTIN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, House Resolution 542, as the gentleman from Missouri has explained, provides for 3 hours of debate, under an open rule, on H.R. 1746, a bill to provide additional powers to the Employment Opportunities Commission. As the gentleman has explained, there are three waivers of points of order, and the so-called Erlenborn bill would be made in order as a substitute.

This legislation would amend title VII of the Civil Rights Act of 1964, which set up the Equal Employment Opportunities Commission. That Commission considers complaints from employees based on color, race, creed, religion, sex, and national origin. Unfortunately, however, title VII of the Civil Rights Act of 1964 did not give enforcement powers to the Commission, at least complete enforcement powers, and as a result they have been somewhat handicapped in carrying out their findings.

The committee bill as reported provides for substantial increases in coverage of the act. For instance, all Federal, State, and local employees would be subject to the act itself. In addition, the present law covers only employers or companies who employ 25 or more employees. Under the committee bill they

would be reduced to eight or more employees. In addition, currently those engaged in teaching or in the education profession, both in private and public schools, are exempt from the law. Those would be brought in under coverage of the committee bill. It is estimated that a total of 22 million Americans would be brought under this act who are currently exempt.

In addition, the committee legislation would transfer from the Department of Justice power in "practice or pattern" discrimination suits. That would be transferred, under the committee bill, to the EEOC. Additionally, the Office of Federal Contract Compliance, which is currently operating in the Department of Labor, would be transferred to the EEOC.

The argument has been made by the committee in the committee report that the Erlenborn bill, which would transfer the prosecution of these cases from the Equal Employment Opportunity Commission to the Federal courts, would delay proceedings. Yet, if we take a look at the committee report on page 64, in the testimony of Mr. Brown, the chairman of the EEOC, we will find they have a tremendous backlog of cases thus far. In the 5 years during which this bill has been in operation, the Commission has had over 52,000 cases presented to it. In the first 7 months of the fiscal year 1971, the total amounted, according to the chairman, to 14,129, a considerable increase over previous years. With the addition, Mr. Speaker, of 22 million Americans to come under the umbrella of this act, the increase in the workload of the Commission would be tremendous.

I would like to quote from the testimony of Chairman Brown of the EEOC, when he appeared before the general Subcommittee on Labor:

> Given the tremendous backlog of charges pending now with the Commission—25,195 as of February 20, 1971—the additional work which would have to be undertaken by the Commission if it gets enforcement powers, the difficulty of obtaining adequate funding for the Commission, and finally, the tremendous administrative difficulties embodied in such a transfer, I am doubtful as to the desirability of transferring OFCC at this time. Specifically, the administrative difficulties are by far the greatest in my view; almost insurmountable.

The committee bill, Mr. Speaker, would set up this five-man EEOC board to be the investigator, the prosecutor, the judge, and the jury of these cases. An employer would be considered guilty until he proves himself innocent—which is opposite the manner in which our courts have operated ever since our founding almost 200 years ago. In our courts a man is considered innocent until proven guilty.

This would give tremendous powers to the Equal Employment Opportunity Commission, comparable to those which the NLRB currently has.

In 1963, Senator GRIFFIN, of Michigan, then a member of the Education and Labor Committee of the House, and the distinguished gentleman from Georgia (Mr. LANDRUM) made a complete study and investigation of the operation of the NLRB. I was interested in the subject and worked with these gentlemen on the matter. I recall that in 1963, from the studies that Mr. GRIFFIN and Mr. LANDRUM made, it was discovered that the NLRB up to that point had reversed previous decisions by the board 171 times.

Why did that occur? A new administration came in 1961. New members were appointed to the NLRB whose philosophy was somewhat different from those who had served under the administration of President Eisenhower. They were more inclined, let us say, towards the labor viewpoint than the management viewpoint. As a result of this change in the personnel and background, and as a result of this fundamental philosophy of the new appointees of the NLBR, 171 decisions were overridden by the NLRB which had been made prior to that point.

Since then, I imagine, the number is a great deal larger than 171.

That is the grave danger, Mr. Speaker, in the committee legislation we have before us today. The Equal Employment Opportunity Commission will be given unlimited powers, and any eligible employee in the United States may file a complaint with the Commission. They are going to be overwhelmed with work down there. There are five members of the Commission, each appointed for a 5-year term. If there is a change in the administration we are going to get new men appointed to that Commission, and again we are going to have a repetition of what has occurred in the NLRB over the past several years.

This is a very, very dangerous piece of legislation. I shall not go into detail with regard to the Erlenborn substitute, but shall only say that the power of being investigator, prosecutor, judge and jury of these cases is given to the Commission by the committee bill, and some of those powers would be taken away from them, and the matters would be handled in the Federal courts, which is the proper place to handle cases of this nature, rather than in a Commission.

The charge is made in the committee report that if this is handled in the Federal courts great delay will ensue. Let me refer again to the report itself. Chairman Brown of the Commission testified they are currently running 18 to 24 months behind in the handling of these cases and have over a 25,000 backlog.

Let us take a look at how the Federal courts are operating. We can take a look at pages 60 and 61 of the report.

The most complaints come from Texas, Louisiana, Florida, Alabama, and so on.

The median time interval in months for nonjury trials in such States discloses the information set forth there. There is given the number of months of delay in the various courts in these 10 States

In summary, of the 29 district courts represented in the above statistics, 21 courts had a median time of 12 months or less and eight courts had median trial completion times of 6 months or less.

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

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

In other words, by handling this through the Federal courts rather than through the Commission these cases will be decided a great deal more expeditiously than is proposed under the committee bill.

There is one other point I should like to make, Mr. Speaker, in closing. The Commission is composed of five men or women who are appointed by the President of the United States. Under the committee bill, as I have explained, these five appointees have great power in view of the fact that they are—and I repeat this point—investigator, prosecutor, judge and jury. In view of the fact that these are appointments made by the President, and the administration can change from time to time from one party to another, we are not going to get consistent decisions made by boards appointed under different Presidents.

These men or women have such great power that it is a good illustration of a nation being governed by men rather than by laws, when we have this sort of thing, a Commission with these extensive powers.

I do not believe we want a further extension of government by men, rather than by law in the United States.

I support the rule, Mr. Speaker. I hope that when the substitute of the gentleman from Illincis (Mr. ERLENBORN) is presented to the House, the Members will be on the floor and that it will be adopted by an overwhelming vote.

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

The previous question was ordered.

The resolution was agreed to.

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1746) to further promote equal employment opportunities for American workers.

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. 1746, with Mr. ADAMS in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from Kentucky (Mr. PERKINS) will be recognized for 1½ hours and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 1½ hours.

The Chair now recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, 7 years ago Congress enacted the Civil Rights Act of 1964. Title VII of that act for the first time established Federal machinery to deal with the problem of discriminatory employment practices.

Title VII provided informal methods of conciliation and persuasion as the primary mechanism for obtaining compliance. Only when a "pattern or practice" of resistance to the statutory mandate was found did it make provision for enforcement by the Government and then only by the Attorney General.

Title VII established the Equal Employment Opportunity Commission as an independent agency charged with administration of the policy of equal opportunity but provided no effective enforcement authority. Such enforcement as an individual might require had to be secured by a private suit in the district courts. At the time it was widely felt that litigation would be necessary only on an occasional basis to meet determined resistance.

The experience of the past 6 years, however, has shown this view to be incorrect. Title VII is not a total failure but neither is it the glowing success that was expected.

Discrimination in employment continues to pervade the United States.

Only 6.9 percent of professional and technical workers; 3.6 percent of managerial employees; 6.8 percent of craftsmen and foremen; and 3.7 percent of sales personnel are minority persons. During 1970, the unemployment rate among blacks was almost twice that among whites. While these figures are improvements over those of a decade ago, it is nonetheless clear that minorities are not very rapidly reaching their rightful place in society—this despite 7 years' experience under a law which outlawed discrimination of any kind.

The situation of the working woman is just as disappointing. Over 30 million women are employed in the United States, comprising approximately 38 percent of the Nation's work force. Ten years ago, women earned 60.8 percent of the average salaries earned by men. In 1968, however, women's earnings only represented 58.2 percent of the salaries made by men. In that same year, 60 percent of women, but only 20 percent of men earned less than $5,000 while, at the other end of the scale, only 3 percent of women, but 28 percent of men had earnings of $10,000 or more.

Effective remedies for these situations have not, and it is now clear, cannot result from the present statutory scheme. During its first 5 years, the Equal Employment Opportunity Commission received more than 52,000 charges, of these 35,145 were recommended for investigation. Each year the number of charges brought before the Commission has increased. In fiscal year 1969 the Commission received 12,148 charges; in fiscal year 1970, 14,129 charges; and in fiscal year 1971, 22,920 charges. The figures for the current fiscal year are expected to show an even sharper rise.

Of the 35,145 charges that were recommended for investigation, the Commission found reasonable cause to find that a discriminatory practice existed in 63 percent of them. In less than half of these cases, however, was the Commission able to achieve a totally or even partially successful conciliation.

ENFORCEMENT AUTHORITY

To correct these deficiencies, H.R. 1746 provides for significant revisions in the primary enforcement mechanisms of title VII. The Equal Employment Opportunity Commission would continue to seek voluntary resolution of disputes, but if conciliation efforts were unsuccessful, the Commission would be authorized to issue complaints, hold hearings and, where unlawful employment practices are found, issue appropriate cease-and-desist orders. These orders would, of course, be subject to review by the courts.

The bill also makes provision for individual recourse to the Federal district courts if the Commission dismisses a charge, or if it has not issued a complaint or entered into a conciliation attempt within a specified period of time.

All members of the Committee on Education and Labor recognized the need for some method of adjudication of charges of unfair employment practices, as indeed, did all witnesses who testified at the committee hearings. The only disagreement has been whether this enforcement power should be through administrative proceedings or through litigation in the courts.

The alternative of providing court enforcement for title VII, instead of administrative cease-and-desist proceedings, was given full and careful consideration throughout the hearings and in discussions at both the subcommittee and full committee levels.

The type of enforcement chosen by the committee is the very same type of authority which has been given to virtually all other Federal regulatory agencies including the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, and the National Labor Relations Board. In addition, the cease and desist method of enforcement is the same as that adopted by 34 of the 38 States which have equal employment opportunity laws.

The same considerations which led to the adoption of administrative enforcement in other areas are equally applicable here. Perhaps the most important of these is the need for the development and application of expertise in the recognition and solution of employment discrimination problems—particularly as these problems are presented in their more complex, institutional forms.

The development of case law in the area of employment discrimination in recent years has made it increasingly clear that the most difficult problem encountered is not whether discrimination has occurred but what the appropriate remedy is to be. The question of remedies is further complicated when discriminatory practices are found to be inherent in basic methods of recruitment, hiring, placement, or promotion.

The very nature of the issues arising under title VII indicates that reliance upon the expertise developed by trial examiners and Commissioners is just as important for this subject matter as it is in the equally complex fields of securities regulation and deceptive trade practices.

Enforcement through an administrative proceeding will ensure a speedy adjudication of issues and will result in a more uniform and predictable body of law.

Agency litigation is less subject to technical rules governing matters such as pleadings and motions—matters which can, and very often do, provide opportunity for delaying tactics. Administration tribunals are less constrained by formal rules of evidence which give rise to a lengthier—and, therefore, a more costly—process of proof.

The experience of other agencies indicates that an additional benefit of cease and desist authority is that the mere availability of an administrative sanction encourages settlements, usually even before the trial examiner stage is reached. The NLRB, for instance, disposes of approximately 95 percent of its cases at the administrative level. Information on State Fair Employment Practice Commissions indicates similar tendencies toward settlement. For example, the Pennsylvania Human Relations Commission issued 47 cease-and-desist orders in equal employment cases through 1969. During that same period, however, 3,838 complaints were successfully disposed of without need for an order.

PRIVATE SUITS

H.R. 1746 retains the right of an individual to bring a civil suit under the act. Section 715 provides that if the Commission finds no reasonable cause, fails to make a finding of reasonable cause, takes no action in respect to a charge, or has not issued a complaint nor entered into an acceptable conciliation or settlement agreement within 180 days after a charge is filed, it shall notify the person aggrieved. That person then has the right to bring, within 60 days, an action in the proper U.S. district court. Such a provision is a necessary protection for the rights of the individual.

To prevent duplication of proceedings under title VII, H.R. 1746 makes provision for the termination of Commission jurisdiction once a private action has been filed. The Commission would, however, retain a right to intervene in private actions. Once the Commission issues a complaint or enters into a conciliation or settlement agreement which is acceptable to all parties, the right of private action would be terminated.

PATTERN OR PRACTICE CASES

Section 707 of the Civil Rights Act would be amended to transfer the "pattern or practice" suit authority which is now vested in the Attorney General to the Equal Employment Opportunity Commission. The transfer of "pattern or practice" jurisdiction to the Commission would eliminate overlapping jurisdictions and unnecessary duplication of function. This is especially important in view of the Commission's acquisition of cease and desist authority, an authority broad enough to cover most of the same violations as formerly reached through "pattern or practice" suits. Persons charged with unfair employment practices should not have to account to several Federal agencies, each of which pursue separate policies. Such duplication is not only burdensome but also harassing.

OFFICE OF CONTRACT COMPLIANCE

For this same reason, H.R. 1746 would also transfer to the Commission all authority, functions, and responsibilities of the Secretary of Labor pursuant to Ex-

ecutive Order 11246 relating to requirements of nondiscrimination and affirmative action for Federal contractors. Currently, the Secretary of Labor through the Office of Federal Contract Compliance—OFCC—monitors, coordinates, and evaluates the Government-wide contract compliance program and supervises the compliance enforcement activities of the 15 Federal contracting agencies. Clarity, uniformity, and predictability, in policy and practice will undoubtedly result when a single agency, rather than a multitude of them, is responsible for enforcing the National policy of equal employment opportunity.

More important, the compliance program will be greatly strengthened if alternative remedies are made available. The only remedy currently available to the OFCC is contract debarment, a penalty so drastic that it has never been used.

STATE AND LOCAL GOVERNMENT EMPLOYEES

Presently, there are more than 10 million persons employed by State and local governmental units, an increase of over 2 million in less than a decade and, by all indications, these numbers will increase significantly in the decade ahead. Very few of these employees, however, have remedies sufficient to eliminate and deal with discriminatory employment practices. H.R. 1746 amends section 701 of the act to include State and local governments, governmental agencies, and political subdivisions within the definition of "employer" under title VII. This would effectively provide the employees of America's second largest employer—the State and local governments—the full protection of title VII.

In its 1969 report on equal employment opportunity in State and local governments, the U.S. Civil Rights Commission found that minorities are frequently denied equal access to jobs through both institutional and overt discriminatory practices. In this respect, there was little difference between State and local governments as employers and the private sector. Perpetuation of past discriminatory practices through de facto segregated job ladders, invalid selection techniques, and stereotyped supervisory opinions as to the capabilities of minorities as a class were found to be widespread, and, if anything, even more pervasive than in the private sector.

PREFERENCE FOR STATE ACTION

Under H.R. 1746, every effort is made to give State fair employment practice agencies, where they exist, the first opportunity to act. The history of State FEPC activity since 1964 suggests that the backup of Federal power in the event of a failure of local action to resolve a discrimination complaint would substantially strengthen the effectiveness of the State and local agencies. Thus, the increased coverage contemplated by this bill should provide more than ample opportunity and incentive for States to resolve their own problems of discrimination, before it becomes necessary to pass them on to the Federal Government.

EDUCATIONAL INSTITUTIONS EXEMPTION

The present section 702 of title VII exempts employees of educational institutions from the protection of the act. H.R. 1746 removes this exemption—section 3 of the bill. Discrimination against minorities and women is as pervasive in the field of education as discrimination in any other area of employment. In light of our National policy of equal employment, there is no reason to perpetuate this exemption.

JURISDICTION LIMITS

H.R. 1746 expands coverage of title VII to all employers with eight or more employees and labor unions with eight or more members. Presently, the act sets a jurisdictional limit of 25 employees or members. This amendment to the act will assure Federal equal employment protection to virtually every segment of the Nation's work force.

TESTS

H.R. 1746 includes a provision requiring that all ability tests which are to be relied on be directly related to bona fide occupational qualifications. Tests, while often useful and necessary, frequently operate unreasonably to the disadvantage of minority groups. Such tests are often irrelevant to the job to be performed by the individual being tested and uncritical reliance on tests are not only of little help in management personnel decisions, but also screen out the disadvantaged minority applicant.

The Supreme Court recognized this problem in its recent decision in *Griggs* v. *Duke Power Company* (91 S. Ct. 849, 1971). The Court held in that case that employment tests, even if valid on their face and applied in a nondiscriminatory manner, were invalid if they tended to discriminate against minorities and the company could not show an overriding reason why such tests were necessary. The Court saw business necessity as the touchstone of the issue. If an employment practice which excludes minorities cannot be shown to be related to job performance, the Court concluded, the practice is prohibited. This amendment to the act alters the language of title VII to better reflect the congressional intent as interpreted by the Court in the Griggs case.

FEDERAL EMPLOYEES

Finally, H.R. 1746 would add a new section to title VII—section 717—giving the EEOC authority to enforce the obligations of equal employment opportunity in Federal employment.

Since Americans traditionally measure the quality of their democracy by the opportunity they have to participate in governmental processes, equal employment opportunity is of critical importance in the Federal service.

Presently, responsibility for implementing the national policy of equal employment rests in the Civil Service Commission pursuant to Executive Orders 11246 and 11478. Despite some progress in this area, the record is far from satisfactory. Statistical evidence shows that minorities and women continue to be excluded from large numbers of Government jobs. They continue to be excluded from higher level policymaking, supervisory positions.

The transfer of the civil rights enforcement function from the Civil Service Commission to the Equal Employment Opportunity Commission does not preclude the Civil Service Commission from continuing its own equal employment programs. Rather, it is expected that the Civil Service Commission and the Federal agencies will continue their commitment to affirmative measures such as recruiting and training, specialized hiring programs, the training of compliance personnel and supervisory personnel in equal employment, and the appointment of EEO officers. In all cases the primary responsibility will rest with Civil Service Commission and the other Federal agencies. It is expected that the EEOC will work closely with them in the development and maintenance of their various programs. It will, however, perform a useful function in reviewing these new programs.

THE COMPROMISE AMENDMENTS

H.R. 1794 was reported by the Committee on Education and Labor by substantial majority. It is a bill imminently fair in its treatment of the problem. The bill has in the meantime, however, been subject to intensive and often unfair criticisms. Some opponents of the measure have charged that it lacks "due process" procedures as will be evident in the debate. H.R. 1746 contains more meaningful elements of due process than does the substitute which is being urged on the House, H.R. 9247. The committee recognizes, however, that concern exists in the minds of some Members because of the questions raised. To reduce that concern and to remove any doubts that may remain, the committee will undertake some amendments to the measure. Briefly stated, they are:

First. There will be an amendment to impose a 2-year "statute of limitations" on the liability of the employer for back pay or reinstatement.

Second. The second amendment will prohibit the EEOC from imposing quotas or requiring preferential treatment. There is no such provision in the substitute proposal.

Third. The third amendment will require notification within 10 days to the employer, union or employer agency whenever an unlawful employment practice charge is filed with the Commission.

Fourth. The fourth amendment will insure that the informal procedure under the Office of Contract Compliance authority are confidential. Giving publicity to such action will be prohibited and punishable.

These amendments substantially improve the committee bill. We can all be grateful to the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), for proposing them.

I urge all my colleagues to support the committee bill as modified by these amendments and to defeat the Erlenborn substitute.

Mr. ERLENBORN. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, as ranking minority member of the Committee on Education and Labor I was an active participant in helping to develop what I regard as the most effective approach to outlawing racial and other forms of arbitrary discrimination in the various aspects of the employment relationship. This approach is fully reflected in the substitute bill now before the House, H.R. 9247, introduced on a bipartisan basis by two members of our committee, Representatives ERLENBORN and MAZZOLI.

During the deliberations of the committee there was never any question that the EEOC—Equal Opportunity Commission—created by the Civil Rights Act of 1964 sadly needed effective authority to enforce the law, an authority which it does not presently possess. Virtually all of our committee members were agreed on that—disagreement arose only as to which method of enforcement would be not only most effective but, expeditious, fair and equitable as well.

The committee bill resorts to what has become popularly known as the cease-and-desist approach. This means giving the Commission the power to hold hearings and to issue cease-and-desist orders enforceable in the Federal circuit courts of appeal. The National Labor Relations Board is a striking example of an agency utilizing that approach and all of us are aware how frequent a target of criticism, from management as well as labor, that agency has become.

The substitute bill, on the other hand, would in no wise change the existing structure of the EEOC. It would continue to have the authority to investigate charges of unlawful discrimination, to mediate and conciliate such controversies, and to seek their voluntary settlement. But added to these would be the power to bring suit directly in the Federal district courts against the parties whom the Commission, on the basis of its investigation, believed had engaged in unlawful discrimination.

The advantages of this judicial approach over the cease-and-desist procedure provided in the committee bill are immediately apparent. A decision in favor of the Commission by the district court would be immediately enforceable—a cease-and-desist order by the Commission would not; enforcement would require resort by the Commission to the appropriate Federal court of appeals. Thus the committee bill would require two procedural steps for enforcement—the substitute only the one.

Moreover, under the substitute, the district court could, if appropriate, grant relief at the commencement of the proceedings before it. In order to secure such immediate relief under the committee bill, the Commission would be compelled to seek it, not from the court of appeals which would ultimately enforce the Commission's cease-and-desist orders, but from a separate and distinct Federal district court which would have no other function or authority under the committee bill.

And in any event, despite the elimination of an intervening step—the hearing by the Commission—in the judicial approach of the substitute, the procedural, evidentiary, and due process safeguards for all the parties involved would be far more adequately assured under the direct court approach than they would be in the administrative hearing conducted by the Commission, acting as investigator, prosecutor, judge, and ultimately appellant, as provided in the committee bill. These considerations alone would be sufficient to convince me that the best interest not only of the victims of discrimination in employment, but of the general public as well, would be best served by the enactment of the substitute bill.

Although this issue of the "judicial" versus the cease-and-desist method of enforcement is the major issue which separates their respective proponents in the committee, it is not the only point of difference between them. It is my considered judgment that there are several other aspects of the substitute which make it superior to the committee bill.

The latter fails to place any time limit on liability for back pay despite the universal existence of a time limitation on such liability not only in private civil litigation but in other Federal administrative proceedings as well, including back-pay orders of the National Labor Relations Board. The substitute provides such a limitation.

In our American system of justice, virtually without exception, a party charged with violating the law is entitled to notice of the charge and some information concerning the nature of such charge within a specifically limited time period. The committee bill contains no such specific time limitation—the substitute does.

The Civil Rights Act of 1964, title VII of which deals with discrimination affecting employment, and which both bills are designed to amend, does not apply to public employees at any governmental level, whether local, State, or Federal, and is similarly inapplicable to employers and unions with fewer than 25 employees or 25 members respectively.

As far as public employees are concerned, a majority of the States now have their own laws prohibiting discrimination in State and local public employment, and the U.S. Civil Service Commission similarly is carrying out its own program to eliminate such discrimination in the Federal service. If all of these public employees together with the employees of the small employers having less than 25 workers are brought under the law, it is estimated that well over 20 million additional employees will be added to the huge number over which the EEOC already exercises jurisdiction. It is impossible even to project approximately the increase in the Commission's present enormous backlog of cases which would result, a backlog which could mean a breakdown in the investigation and enforcement activities of the Commission.

Under the existing act, situations which present a discernible practice or pattern of discrimination in employment, and not merely individual cases of it, are handled by the Department of Justice by resort directly to the Federal District Courts. The committee bill would transfer this function to the EEOC and it would be handled by the cease-and-desist procedure. The same defects would obviously exist as those I have already described in my comparison between the judicial and the cease-and-desist approach. But these defects would be compounded not only by the loss of the accumulated expertise of the Department of Justice in this area, but of the enormous legal resources, including the investigative machinery of the FBI, as well.

The committee bill transfers the functions of the OFCC—Office of Federal Contract Compliance—from the Department of Labor to the EEOC. The OFCC acts under the authority of a Presidential Executive order for the purpose of eliminating discriminatory employment practices on the part of Federal Government contractors. The sanctions for violation of the Executive order are refusal to award a Federal Government contract to an offending employer or cancellation of such a contract if it has already been awarded.

The OFCC does not operate under the provisions of the Civil Rights Act and its procedures and sanctions are completely different from those of that act, and cannot administratively and pragmatically be brought within its present statutory scheme. Nevertheless, the committee bill does not expressly supersede the Executive order nor does it incorporate its provisions into the act.

This raises a serious question as to whether the EEOC can adapt its own procedures to the administration of the OFCC functions and creates legal ambiguities resulting from the failure expressly to supersede the Executive order and to incorporate its provisions as an amendment to the Civil Rights Act. These difficulties would arise from the fact that OFCC has imposed requirements on Federal Government contractors which it is questionable may be imposed under the statute.

The present law requires that a party who charges that he has been discriminated against unlawfully must resort to his State antidiscrimination agency if one exists in his State before resorting to the EEOC. The latter may not take the case for a limited period while it is pending before the State agency. Neither of the bills pending before us in any way modify this requirement of the existing law.

But it should be noted that the proponents of the committee bill, while asserting that the 32 States which have antidiscrimination laws operate effectively with the cease-and-desist procedure, they nevertheless support the provision bringing State employees under the Federal jurisdiction of the EEOC. In my opinion they thereby demonstrate a lack of faith in the effectiveness of these State laws to eliminate job discrimination in their own jurisdictions.

In conclusion, let me reiterate that those of us on our committee who support the substitute bill are just as dedicated to the eradication of the evils of employment discrimination as are the proponents of the committee bill, and are convinced that our solution will prove far more satisfactory in every significant respect.

Mr. DENT. Mr. Chairman, I yield 15 minutes to the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, a few minutes ago a member of the Rules Committee, in referring to this matter, indicated this was a rather dangerous proposal being sponsored by the gentleman from New York (Mr. REID) and me and several other coauthors.

May I simply remind Members that 32 States have similar laws which prevail at the present time. If the gentleman is referring to the States which have adopted this dangerous law as their own law, I would like to point out the following States are included among those which have such a law: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Indiana, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Oklahoma, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

So just consider that those States, too, have moved into this rather dangerous area to impose the cease-and-desist administrative procedure on the American people.

There are other misstatements which I believe should be corrected at the very beginning, in terms of us who seek to implement the Civil Rights Act of 1964. We should remember that the national policy is one of equal employment opportunity, and that the rights which we seek to secure under H.R. 1746 are well founded in our law and in our American traditions.

While discrimination because of race, color, religion, national origin or sex is a thing which is specifically prohibited by title II of the Civil Rights Act of 1964, this law protects every individual in this country. White no less than black workers may, in some instances, be discriminated against. That is, there may be so-called reverse discrimination in many instances.

Discrimination in employment violates our conception of justice and equality as expressed in the Declaration of Independence, our Constitution, and the Civil Rights Act of 1964.

The only room for disagreement in the matter before us is the means of implementing the national policy. H.R. 1746 seeks to incorporate a well-established and effective procedure by granting cease and desist authority to the Equal Employment Opportunity Commission. Numerous other Federal regulatory agencies already have this authority—the NLRB, Federal Trade Commission, Securities and Exchange Commission, just to name a few of the numerous agencies that already have the power which we seek to give to this Commission under H.R. 1746.

This procedure was recommended by the Congress in the Administrative Procedure Act which we adopted in 1946, and under which most administrative agencies have operated for some 25 years.

Also, in 32 of our States, as I have already enumerated, the fair employment laws they have adopted follow this same procedure.

As a matter of fact, the only effort being made by any body or any individual is on this one particular question. The substitute seeks to turn the Equal Employment Opportunity Commission into a legal monstrosity by denying it the same enforcement authority enjoyed by similar agencies and by requiring it to go into the already overcrowded courts to seek enforcement.

Can anyone imagine what 10,000, 15,000, or 20,000 additional cases could mean in the already overcrowded courts of our land?

Those who advocate this approach may say that they differ only as to the means of enforcing the policy of this Nation. Their position, however, is weakened by the support they receive from those who either deny the existence of discrimination or seek no legislation at all.

Outside of court enforcement itself, which is of doubtful value, no other provision of the substitute would add strengthening protection for those against whom discrimination is rampant.

There are those who would make H.R. 1746 appear as a scheme to allow blacks to leapfrog over others at the expense of white workers.

Not only does this ignore the entire issue of sex discrimination, which involves more white than black women, but it overlooks entirely the experiences already recorded in the 32 States with cease and desist enforcement power where past dire predictions have been proved entirely false.

Again some say that this bill seeks to establish quotas and stop discrimination in reverse. Not only does title 7 prohibit this, but it establishes beyond any doubt a prohibition against any individual white as well as black being discriminated against in employment. It only seeks to insure that persons will be treated on their individual merits and in accordance with their qualifications. To assert that the hiring of a black employee without discrimination implies the rejection of a qualified white employee is pure sophistry, as the courts have said. I cite the United States Court of Appeals, the Third Circuit of Pennsylvania, before which the appeal from the case in Pennsylvania involving the so-called Philadelphia Plan was taken. Such a conclusion also ignores the viable and fluid character of the labor force and it assumes an entirely static economy.

Perhaps the wildest charge of all is the constant charge that H.R. 1746 somehow denies a fair trial or due process of law This attacks the Administrative Procedure Act, the act on which the procedures established by this bill are founded. It attacks the NLRB, the SEC, the CAB, the Federal Trade Commission, and the other Federal agencies which operate under the same Administrative Procedure Act and this assertion attacks 32 State laws as unconstitutional as if they also denied a fair trial or due process, as H.R. 1746 is claimed to do.

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

Mr. HAWKINS. I yield to the coauthor of the bill, the gentleman from New York (Mr. REID).

Mr. REID of New York. Mr. Chairman, I am very happy to join with the distinguished gentleman from California in coauthoring this bill.

I would say very simply at the outset that this bill and the action on it today will be a test of Republican principle on the one hand and Democratic leadership on the other. It will be unconscionable if this House fails to act affirmatively. Having once passed this bill in 1965, it will almost be beyond belief to recognize by inaction that this Congress will not take meaningful steps to end discrimination in employment through appropriate Federal action after 32 States have already acted. This is not a case of the Congress having led but of the Congress having followed. I deeply hope that all Members, at least on this question, will see the merits of providing minimal cease-and-desist powers; powers that work eminently well in two-thirds of our States and, clearly, powers that cannot be provided in any other way.

One of the arguments that will be raised ad infinitum, if not ad nauseam, in this debate I am sure will be the question of time elapsed before relief is obtained. The plain fact of the matter is that in the New York State Commission for Human Rights and other State commissions possessing cease-and-desist authority enforceable in the courts less than 1 percent of the cases ever had to go into court proceedings. The way to deal with this problem promptly, fairly, and equitably is to strengthen the Equal Employment Opportunities Commission through cease-and-desist powers.

I wish to commend the gentleman in the well for his thoughtfulness, persistence, and continued vision in this matter.

I deeply hope that the House will act in the interests of all Americans rather than be side-tracked by some side issues which would genuinely weaken the opportunities for equal employment for all Americans.

Mr. HAWKINS. I thank the gentleman. I would simply respond by saying that in the other body an identical bill has been introduced with the support of both the Republican and Democratic leadership and I would hope that that same kind of cooperation and bipartisan support would be followed in this House.

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

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

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from California for the work that he has done to bring this present bill to the floor of the House, and also to remember that it was in the 91st Congress that he also performed yeoman service, along with the leadership of the gentleman from New York (Mr. REID). I am reminded that in the 91st Congress there was a great deal of confusion over the processes of the House that would

have brought this bill to the floor. I am sure the gentleman in the well recalls it very well. We were trying to find persons who would help us to get the bill through the committees in this body. We were unsuccessful. However, I remember being assured and reassured that in the 92d Congress we would do what had ought to have been done many years before.

I want to now, Mr. Chairman, call upon all of those who gave me those assurances to please be sure to produce them during the discussion and resolution of this bill.

I say again that the gentleman from California has been most patient and most generous on behalf of the Americans for whom he has put forth his efforts for all working people across this country who feel the specter of discrimination, who know what it is like not to be afforded equal opportunity in this very important area, and I pledge my continued support to pass this bill.

Mr. HAWKINS. I thank the gentleman.

While discrimination because of race, color, religion, national origin, or sex is the thing specifically prohibited, the existing law (title VII of the Civil Rights Act of 1946) protects every individual in this country. Whites, no less than black workers, may in some instances be discriminated against as is alleged in "reverse discrimination" on men as well as women. The prohibited acts may not be committed against "any individual" as the law specifies throughout title VII.

Discrimination in employment violates our concepts of justice and equality as expressed in the Declaration of Independence, our Constitution, and the Civil Rights Act of 1964. The only legal room for disagreement is the means of implementing the national policy.

H.R. 1746 seeks to incorporate a well-established and effective procedure by granting "cease and desist" authority to the Equal Employment Opportunity Commission. Numerous other Federal regulatory agencies have this authority—the NLRB, FTC, SEC, to name a few. This procedure was recommended by Congress in the Administrative Procedure Act (1946) under which most administrative agencies have operated for 25 years. Also in 32 of our States similar fair employment bodies have adopted this approach.

The substitute seeks to turn the Equal Employment Opportunity Commission into a legal monstrosity by denying it the same enforcement authority other similar agencies enjoy and requiring it to go into already overcrowded courts to seek enforcement.

Those who advocate this approach say they differ only in the means of enforcing the law. Their position, however, is weakened by the support they receive from those who either deny the existence of discrimination or who seek no legislation at all. Outside of court enforcement itself, which value may be doubtful, no other provision of the substitute would add strengthening protection for those against whom discrimination is rampant.

There are those who would make H.R. 1746 appear as a scheme to allow blacks to leapfrog over others at the expense of white workers. Not only does this ignore the entire issue of sex discrimination which involves more white than black women, it overlooks entirely the experiences already recorded in 32 States with cease-and-desist enforcement power where such dire results have been proved entirely false.

Again, some say H.R. 1746 seeks to establish quotas, special treatment, and discrimination in reverse. Not only does title VII prohibit this—it establishes, beyond any doubt—a prohibition against any individual, white as well as black, being discriminated against in employment. It seeks only to insure that persons will be treated on their individual merit and in accordance with their qualifications. To assert that the hiring of a black employee without discrimination implies the rejection of a qualified white employee is pure sophistry, as the courts have said—U.S. court of appeals, third circuit of Pennsylvania. Such a conclusion ignores the viable and fluid character of the labor force and assumes an entirely static economy.

Perhaps the wildest claim of all, however, is the constant charge that H.R. 1746 denies "a fair trial" or "due process." This attacks the Administrative Procedure Act of 1946, a host of other Federal agencies—NLRB, SEC, CAB, FTC, and so forth—and 32 State laws incorporating "cease and desist" authority.

The bedrock upon which this legislation is founded is education and conciliation not punitive action. The Administrative Procedure Act approach is being used to avoid cumbersome and costly court action except as a final resort.

If direct court action were more desirable the existing law with minor changes is entirely adequate. Already the individual may sue if conciliation fails and the Attorney General already may intervene in such suit as well as initiate practice or pattern suits. It is not court enforcement which is the main purpose of the Erlenborn substitute but changes in the existing law which will limit, if not emasculate, title VII of the Civil Rights Act of 1964.

A major purpose of H.R. 1746 is a consolidation of the various agencies dealing with job discrimination. Three agencies in particular, the EEOC, the Employment Section of the Attorney Generals' office, and the Office of Federal Contract Compliance have jurisdiction, each with its own goals, policies, guidelines and programs.

By centralizing these in a single agency we achieve coordination, clarity, and consistency in defining discrimination and in shaping a proper remedy. And we free litigants from a multiplicity of suits, confusion over the intent and requirements of the law, and duplication of inspection and recordkeeping.

Some fear has been expressed that the transfer of the Office of Federal Contract Compliance from the Labor Department to the EEOC would weaken this agency.

The Labor Department's enforcement of Federal contract compliance has been a dismal failure. Its sanction, contract termination or debarment of contractors, has never been used. As a matter of fact, about half of all charges filed with the EEOC involve Federal contractors who are ignoring the Executive order which created the contract compliance procedure.

A recent report of the EEOC on employment of Spanish-speaking persons in the Southwest revealed that fewer were employed by Government contractors being monitored by OFCC than companies without contracts.

The main concentration of the OFCC has been on the construction industry, notably the "Philadelphia plan." This emphasis has ignored women almost altogether as well as the welfare of male workers not involved in the building trades. As a matter of fact, among the major discriminators against women are educational institutions of higher learning, which although exempted under title VII, are covered by the Executive Order No. 11375 and, therefore, as Federal contractors reachable by the OFCC.

If the OFCC were to be judged on its track record, it would certainly not rate among the favorities. No discrimination is worse than that of those who do business with the Federal Government supported by tax dollars. We ask merely that "those who dip their hands into the public till should not object if a little democracy sticks to their fingers."

Social justice is never a one-way love affair. In asking minorities and women to be patient a little while longer in the realization of their basic constitutional and human rights, we seek to establish a forum for their just grievances which is at least capable of shaping an effective remedy.

The alternative is a proposal which seeks to clamp the lid on a boiling pot of frustration and discontent. Minorities and women seek performance, not rhetoric and delay. The economically disadvantaged seek justice and fair play, not redtape and more sophistry. The time to act is now as Father Theodore Hesburgh summed up his views in the 1961 Civil Rights Commission report:

> Personally, I don't care if the United States gets the first man on the moon, if while this is happening on a crash basis, we dawdle along here on our corner of the earth, nursing our prejudices, flouting our magnificent Constitution, ignoring the central moral problem of our time, and appearing hypocrites to all the world.

And in still another report of the Commission are these words:

> The tragedy is that there still are millions of minority group citizens who believe Congress meant what it said when it enacted an Equal Employment Opportunity law.

I think now is the time that this Congress can restore the faith of these millions of individuals and revitalize the faith of the people of the world in the democratic process of our American way of life, and I hope that we will not dally around again, as Father Hesburgh has said, but will meet this issue squarely and head-on.

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

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

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

Mr. Chairman, the gentleman in his remarks mentioned that a bill identical to H.R. 1746 was introduced in the Senate, I believe that was yesterday; is that correct?

Mr. HAWKINS. I think it was several days ago but, yes, I did make reference to a bill that was introduced in the other body.

Mr. ERLENBORN. Is that identical to the bill before the House, H.R. 1746?

Mr. HAWKINS. Almost identical. There are a few minor changes, but basically it is the same bill. It is a cease and desist administrative procedure bill, and it has the same coverages, and also goes to the same type of consolidation.

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

Mr. ERLENBORN. Mr. Chairman, I yield 2 additional minutes to the gentleman from California (Mr. HAWKINS) so that I may ask the gentleman another question.

Mr. HAWKINS. I thank the gentleman for the additional time.

Mr. ERLENBORN. Mr. Chairman, would the gentleman yield further?

Mr. HAWKINS. I yield further to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding further.

Is the gentleman aware of the statement that was put in the RECORD of the House yesterday by the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), relative to three amendments to H.R. 1746? And if the gentleman is aware of those amendments, does the gentleman support them?

Mr. HAWKINS. The amendments were discussed with me, I am very well aware of them, and I support all three. I have indicated that I feel no actual punitive feelings, if this reasonable compromise will be made. I do not think that all of the amendments personally would be acceptable to me, but in the context of trying to work out a reasonable and satisfying compromise I do accept and will support all three of the amendments.

Mr. ERLENBORN. Could the gentleman tell me, are those amendments included in the version of the bill considered in the Senate?

Mr. HAWKINS. I am not aware of whether they are or not.

Mr. ERLENBORN. Will the gentleman in the well yield further?

Mr. HAWKINS. I do yield further to the gentleman from Illinois.

Mr. ERLENBORN. I would state to the gentleman that two of the amendments that the gentleman from Pennsylvania (Mr. DENT) put in the RECORD yesterday are somewhat similar to amendments offered by the minority, and were rejected in the committee, and one of them was an amendment that would deny the OFCC jurisdiction, the right to establish goals and quotas. I would ask the gentleman from California if that is not an absolute slap at the Philadelphia plan, in that this would be isolating from the OFCC, if they should get jurisdiction, the authority to exercise as a governmental agency the problem that has been exercised in the Philadelphia plan which was supported on the floor of this House when it was challenged recently?

Mr. HAWKINS. I want to say to the gentleman that I supported the Philadelphia plan, the same as I think he did also. In my opinion, the amendment does not in any way contravene the intent of the Philadelphia plan.

Mr. ERLENBORN. How can the gentleman say that?

Mr. HAWKINS. May I explain?

Mr. ERLENBORN. I certainly would be glad to hear the gentleman's explanation.

Mr. HAWKINS. Under the current law, a quota of preferential treatment is denied. That is a part already of title VII of the Civil Rights Act.

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

Mr. ERLENBORN. Mr. Chairman, I yield the gentleman from California 2 minutes.

Mr. Chairman, would the gentleman yield at this point?

You just said that the law prohibits the establishment of quotas. You are referring to title VII of the Civil Rights Act of 1964?

Mr. HAWKINS. Yes.

Mr. ERLENBORN. You are not referring to the Executive order of the President from which the authority for the OFCC was derived?

Mr. HAWKINS. I have read the Attorney General's opinion and I assume you did also. As you no doubt saw, the Attorney General says that, in his opinion, the provisions of the Philadelphia plan do not contravene the law or the prohibitions in title VII.

So as I read the amendment, the amendment does not prohibit anything that the law does not already prohibit. It was never the intent, as the present Attorney General states in his opinion, that an Executive order should contravene what the law prohibits. So squaring this, it seems to me when we talk about prohibiting quotas and talk of preferential treatment, we are merely reflecting what is in the present law. While this amendment clarifies things, it does not do anything that is not already prohibited.

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

Mr. HAWKINS. I yield further.

Mr. ERLENBORN. Let me recall to the attention of the gentleman as well as to the membership of the House that, in fact, only a circuit court of appeal of our judiciary has upheld the Philadelphia plan.

In my opinion, the proposed amendment that is going to be offered by the gentleman from Pennsylvania is nothing but a blatant attempt to undercut the authority of the OFCC for the Philadelphia plan. As was pointed out by the gentlewoman from New York (Mrs. CHISHOLM) in our hearings when she called for the support of the AFL–CIO for the bill supported by our committee which is under consideration now that this is a disingenuous attempt to undercut the Philadelphia plan and an attempt to bring equal employment opportunities in the construction industry.

I think the proposed amendment is nothing but a confirmation of the gentlewoman's opinion.

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

Mr. DENT. Mr. Chairman, I yield to the gentleman from California (Mr. HAWKINS) such time as he may consume.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, on this very point I want to ask the gentleman from California a question.

Title VII of the Civil Rights Act has always prohibited the establishment of quotas. During the legislative history of the Civil Rights Act, it was clearly the congressional intent not to bring about civil rights for some by denying civil rights to others. We had seen that for decades. We were trying to end it. The legislative history of the Civil Rights Act—the debate in the Senate and the House shows that it was not the congressional intent to establish quotas of any kind in our struggles to bring about equality of opportunity.

The Executive Order 11246 under which the Philadelphia plan was put into effect, in my judgment clearly did establish quotas. But, I do not want to talk about the Philadelphia plan this afternoon. I want to talk about situations of which I have personal knowledge.

I talked to the chairman of the committee and to others and I said that it would be impossible for me to support the committee bill that we are considering today without some amendments—and this is one of them—a congressional prohibition against establishing any quota system—a prohibition against preferential treatment for some at the expense of others, a prohibition against "reverse discrimination" if you will.

Let me tell you of three instances, and I think these can be multiplied by the thousands across the country.

In my own city of Portland, we have a ship conversion plant.

In the Portland area we have, perhaps, 5 or 6 percent black population. This ship conversion plant has records to prove they have employed 15 percent minority people. As a matter of fact they carried on an active recruitment program—seeking out members of minority groups.

The Contract Compliance Office in San Francisco came into Portland, and they said that they would not be eligible for any Federal contracts unless they would have 15 percent minority employees in every single job category.

It was not sufficient to have 15 percent minority employees in the plant itself. They required 15 percent of the electricians to be of the minority race; 15 percent of the welders must be of the minority groups; 15 percent of the secretarial help and so on right down through every single category.

There was absolutely nothing that this ship conversion plant could do to satisfy the Office of Contract Compliance in San

Francisco unless they followed their orders. This also required the "dumping" of labor contracts—of negotiations which had been made; seniority rights were ignored. All this was never the intent of the Civil Rights Act, and it was never the intent of the Congress, so far as I am concerned. That is the reason the amendment will be offered by the distinguished chairman of the subcommittee, the gentleman from Pennsylvania, this afternoon: To give this House the right to decide whether or not we want to amend the Civil Rights Act and to say whether we are going to establish quotas by law. H.R. 1746, the committee bill, on page 29, freezes Executive Order 11246 into the law. If this were passed without amendment, we would be giving our approval to the quota system.

In many instances this creates reverse discrimination, which I find just as inexcusable and just as despicable as any kind of discrimination. I want all people to have equal rights, equal opportunities in education, in housing, in jobs. This does not mean special preference for some at the expense of others.

Let me give you two other instances. A year ago last December a group of Oregon parents who are stationed in Washington, D.C., by the department of military came into my office to talk about the situation in the schools which their children attend. They had many complaints—in fact, 10 pages of incidents that had happened—but one of the things which seems to me relevant to our debate today was the statement by one of the parents: "I have a son in the fourth grade. Since September—" and this was in December that they came to see me—"Since September my son has had seven substitute teachers; he never has had a regular teacher."

I said, "Well, how can that be?"

She said, "Under the Skelly Wright decision we had to have a quota of black and white teachers and as a regular teacher we cannot hire a white teacher. We must hire as a regular teacher a black teacher." No qualified black teacher is available for this position. They are already teaching in other schools, and a qualified white teacher cannot be hired as a regular teacher in this position. In my judgment, this is reverse discrimination, and it is doing great damage. It is counterproductive. It creates tension; it increases prejudices that might not otherwise surface.

A third instance: A teacher here in the District schools—whom I know very well and who is in the top five of the qualified social science teachers here in the District as a result of examinations and recommendations—asked for a transfer to another high school because they had moved out close to another high school. She applied, and the principal of the school who received her application said that they could not hire her.

She said, "Be very candid with me. Is my race against me?"

And the principal said, "Yes, to be very candid, this is true. A quota has been set up and we must observe that quota in this high school. We cannot hire a white teacher."

I have given you these three instances. They are not the Philadelphia plan, but they are instances where preferential treatment has been given, where reverse discrimination has been practiced, where injustice has occurred, and that is why the amendment will be offered this afternoon: To prevent preferential treatment, to prevent reverse discrimination, to prevent quotas being established as far as either race is concerned.

I do not think that that is the way to run the country. We ought to accept people on the basis of their qualifications, on the basis of their dedication, whether they are white or black, red, brown or yellow, or whatever their sex is, and not establish preferential quotas that are doing great harm to our country, that are tearing the people apart, and are not accomplishing our objectives. This is the reason I cannot support the committee bill this afternoon in its present form.

There are four amendments which I think are going to add substantially to the quality—to the effectiveness of this legislation—and the gentleman from Pennsylvania will offer those amendments. They were put into the RECORD last night.

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

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

Mr. CONYERS. I thank the gentleman for yielding. I am sorry we are going to have to apparently, in the course of discussion of this bill, confuse the issue so thoroughly that many people are going to end up putting the tail before the horse. We are here today to try to pass a bill that will give the Commission cease-and-desist powers, which have been advocated for a great number of years, legislation which has indeed passed this body once before, which has passed the Senate, and I am hoping that the spirit of a very basic principle such as that will not get beclouded in some confusing rhetoric about whether you are for or against the quota system.

A number of people have been trying to gain some freedom and justice within or without this system or in any other possible way, so I am not going to try to divide this Congress into two groups, those who want an EEOC with the quota system and those who want it without.

Why do we not consider whether we want cease and desist powers to go to the EEOC, which is really the fundamental question here? I am hoping the gentleman in the well will give this question that has been raised in an extraneous fashion, in my opinion, his continued consideration during the debate, because I think too many of our Members are going to be arguing on an amendment that has not been introduced rather than on the substantive question before us.

Mr. HAWKINS. I thank the gentleman.

May I just try to clarify the issue as to what the present law is. It says that it shall be an unlawful employment practice for an employment agency or an employer to fail to or to refuse to refer for employment or otherwise to discriminate against any individual because of his race, color, religion, sex, or national origin. That same prohibition is carried to employment agencies or unions or employers. It refers to any individual. I read that to mean any individual, any person who believes he has suffered reverse discrimination has the same protection under the law as the person who believes he has been discriminated against because he happens to be black.

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

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

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding. I do not want to use a great deal of the gentleman's time, but only wish to make this response to what the gentleman from Michigan said. I am not raising an issue that has not been raised by the majority, by the gentleman controlling the time and by the gentleman in the well, who says he supports the amendment which it is supposed will be offered. If the gentleman is correct, we should be talking about getting enforcement authority into the hands of the appropriate authority. We are having a difference about what type of enforcement authority we should give to whom. The gentleman from Missouri, a member of the committee, would support the concept involved in the amendment that is going to be offered by the gentleman from Pennsylvania which raises the issue of the Philadelphia plan, which is the one I raised.

Mr. HAWKINS. I do not think it does. I think the issue, as it has been stated, is cease and desist. I think others are extraneous complications we are talking about in the present law and not what this law attempts to do.

Mr. ERLENBORN. If the gentleman will yield one last time, it can hardly be an extraneous issue when the gentlewoman said it was a condition for her support.

Mr. HAWKINS. It may be a condition for her support, but I think she wants added security, which I personally do not believe is necessary. I am not objecting to or supporting the amendment on the basis that I think the amendment corrects an ineffective law. I disagree that the Philadelphia plan imposes a quota. In this respect I agree with the Attorney General. If some people think it does, then I think it may be well to clear up the law on this point, and that is the only reason that I can see for this.

Mr. DENT. Mr. Chairman, I do not yield further to the gentleman from California.

Mr. ERLENBORN. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I am extremely grateful to the gentleman from Illinois (Mr. ERLENBORN) for his courtesy in yielding me this time.

Mr. Chairman, there is a spirit abroad that is troubling our land. Tragically, it is not a revival of the kind of American spirit for which our President recently called in his eloquent message to a joint session of the Congress. Rather, it is a spirit compounded of fear and mistrust which once again threatens to pit race

against race. Old passions that we had thought were stilled have been reignited. The paper this morning carried accounts of incidents from California to Boston which are illustrative of this deepening and widening fissure in our society. In San Francisco, a city noted for its liberality of spirit, one-third of the student population boycotts the public schools because of a busing plan. Travel to the Middle West from which I come, and we discover that in Pontiac, Mich., a great industrial plant, a stranger to the dispute raging in that city between parents and school board, is shut down, and its machines stand silent because of picketing parents. In Boston, that ancient cradle of liberty, dissatisfaction over school busing has led one house of the Massachusetts Legislature to enact a statute which would repeal provisions of the law that would prevent the flow of funds to all black schools. I mention these facts not to inject an extraneous issue into the debate that begins today. I mention them for two reasons. In the first instance they are indicative of the fact that the mood and desire for strong civil rights legislation seems to have changed. The men who patiently and wearily walk the corridors of Congress find fewer supporters, and even those who listen do so somewhat abstractedly. The distinguished chairman of the U.S. Civil Rights Commission, Father Theodore M. Hesburgh, himself a legal scholar, can speak for a unanimous Commission in recommending a grant of cease-and-desist authority to the Equal Employment Opportunity Commission. But his voice is all but lost in the rising crescendo of protest against clothing Government agencies with more administrative power. I say all of this not out of bitterness but out of a solemn realization that there is a vastly different climate today than there was back in 1968 when the Congress enacted open housing legislation.

I mention these specific incidents that are troubling the peace and tranquility of our land because although they relate to our educational system and the highly emotional and difficult issue of school busing, I believe that there is a clear connection between legislation which would attempt to wipe out the pervasive effects of discrimination in employment and the patterns to de facto segregation which have led to the present impasse. One does not have to be a sociologist to appreciate that the economic stratification in American society which has produced these patterns of segregated housing can be traced directly to the fact that although blacks constitute 10 percent of the American labor force, eight out of 10 male black workers are concentrated in occupations that are grouped along the three lowest rungs of the economic ladder in terms of income. Over the longer term if we really want to find a solution to this tormenting problem of how best to desegregate the schools of our land in order to assure a quality education to all of our children, it will only come as we succeed in achieving a dispersal of the population that is today locked within the inner city ghetto into our all white suburban areas. We will make a giant stride toward achieving that goal when the day comes that a man or woman is no longer disqualified for employment or advancement in his occupation or profession on the basis of his racial or ethnic background. I repeat, when we liquidate the problem of discrimination in employment we do far more than assure a man of his right to a job. We will give him along with that right the opportunity to cross some of the barriers that are now raised against his complete entry into the enjoyment of all the privileges of being an American citizen. I find it more than a little ironic that on the cover of Time magazine this week appeared the face of a famous behavioral psychologist, B. F. Skinner, who has written a very controversial book soon to be published entitled, "Beyond Freedom and Dignity." It is apparently Mr. Skinner's thesis that freedom and dignity, while they may have been approporiate to an earlier era in the history of man, are no longer the most important considerations for a society confronted by a race for survival. I find it ironic because no one on either side of this debate can in truth and in conscience deny that there are still millions of Americans who have not achieved freedom and dignity. Therefore, I would suggest that despite any discouragement of the moment over some of the conditions that are rending our country, that we in the Congress resolve that we will continue that march toward freedom and dignity for all Americans by seeking to provide within a legislative framework of due process those necessary guarantees against unequal treatment under the law.

The debate during these next 2 days will be conducted not only on a very high forensic plane, but in an intelligent and enlightened manner because of the character and capacity of the chief protagonists in this debate. Men of good will and also sometimes men of common purpose can disagree on the means whereby an objective can best be reached. Therefore, I shall not at any time during this debate impugn the motivations of those who take a position contrary to my own, and suggest that the judicial process is superior to the administrative process in guaranteeing an effective implementation of the rights provided under title VII of the Civil Rights Act of 1964.

The argument against a grant of cease-and-desist authority seems to break down under two main headings. First, it is alleged that the judicial process would be a more effective and expeditious way of dispensing relief than would be the administrative process. And very frankly, there are statistics which can be adduced on both sides of that argument. After a careful examination, however, I am convinced that the administrative process would provide a more speedy remedy. There are some very egregious examples of civil rights cases where by virtue of dilatory pleadings and other delays that are countenanced by our legal system years have gone by between the filing of a case and the granting of a remedy to the aggrieved party. Certainly justice delayed is justice denied, in cases involving equal employment opportunity just as much as it is in other civil and criminal cases.

I fully realize that particularly in the business community there seems to be a very deep seated fear of the administrative process. Some businessmen are quick to react to the suggestion that EEOC be given cease-and-desist authority by citing a parade of horribles that have occurred under other Federal agencies such as the NLRB. I think at this point they should be reminded that the NLRB is not the only agency of such administrative authority. Indeed, the first administrative hearings in this country were held by customs officers, and go all the way back to 1789. Before the turn of the century the ICC was clothed with the authority to conduct administrative hearings. The SEC, FCC, and FTC are examples of other agencies that have demonstrated an ability to handle a grant of this kind of power. Certainly I do agree that Congress has a responsibility to carry out its oversight authority of the EEOC. If they abuse any powers they have been given by statute they should suffer correction and reproof and be disciplined in the appropriations process as well as by other means that are available. However, I do not think that we should shrink from a grant of this authority unless we are willing to condemn the entire administrative process which as I suggested has a very long history indeed.

Second, it has been suggested that under the administrative process there will be a subtle shift in the burden of proof, and in other ways the offending party will be unable to secure a due process. In a long letter which I previously addressed to all of my colleagues along with my colleague from New York (Mr. ROBISON), and my colleague from Pennsylvania (Mr. BIESTER), I sought to point out that under the Administrative Procedures Act of 1946, Congress had made it clear that administrative proceedings were to be initiated and conducted with all of the essentials of due process that are guaranteed any person under our legal system.

In conclusion, it is because I believe that we must move and act decisively in the area of discrimination in employment practices that I favor using those means and taking those steps which will provide the most expeditious and effective remedy.

I was reading just a few minutes ago, as I sat here on the floor of the House of Representatives, a letter or memorandum prepared on the basis of the last Judicial Conference—the proceedings of the Judicial Conference of the United States. It pointed out that due to the rising workload in the Federal courts the conference is casting about desperately for ways to expedite trials, because in 1970 the conference reported that the increase in that year in case filings was the steepest, the steepest caseload for any year in the last decade. There was a total of 127,270 civil and criminal cases in 1970.

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

Mr. ERLENBORN. Mr. Chairman, I yield the gentleman 3 additional minutes.

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

Mr. ERLENBORN. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

And the Judicial Conference stated—

terminations have not managed to keep pace with the filings . . . The slower pace in terminated cases inescapably forced the volume of pending cases up.

Mr. Chairman, that is the situation that confronts the Federal judiciary today.

I looked further at the report of the Judicial Conference with reference to the issue of the time required for trial and for the disposition of these cases. The trial median for both civil and criminal cases was 12 months. That does not sound too bad. But when one looks down the list of specific districts, one comes to the eastern district of Pennsylvania where the trial median time is 36 months, the southern district of New York is 28 months, the western district of Pennsylvania is 28 months, the very districts of the country where a number of these cases are apt to be filed and the very districts in the country today that are literally drowning in a sea of cases.

Mr. Chairman, I was interested enough in this matter to talk with the chief judge of the northern district of Illinois which is located in my district and he told me that because Congress has been so overly generous with grants of new jurisdiction that they simply could not handle the volume of cases which they are undertaking to handle today and which are pending.

Mr. Chairman, it is because of the very deep-seated fear I have that if we are going to simply overburden the Federal judiciary with congressional grants of authority in these cases, we will thereby thwart what proponents of this change say they want and that is efficient and expeditious enforcement of the guarantees as contained under title VII of the bill.

Therefore, Mr. Chairman, I have today decided that I will support the committee bill.

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

The CHAIRMAN. The Chair will count.

Sixty-five 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. 259]

Abourezk	Dwyer	Gubser
Alexander	Edwards, Ala.	Haley
Anderson, Tenn.	Edwards, La.	Hébert
Ashley	Eshleman	Henderson
Barrett	Evans, Colo.	Jarman
Blackburn	Evins, Tenn.	Keith
Blanton	Fish	Koch
Boggs	Ford, William, D.	Long, La.
Carey, N.Y.	Frelinghuysen	McEwen
Celler	Fulton, Pa.	McKinney
Clark	Gaydos	Minshall
Colmer	Gibbons	Mollohan
Culver	Goldwater	Moorhead
Diggs	Gray	Murphy, Ill.
Reid, N.Y.	Smith, Iowa	Thompson, N.J.
Rooney, Pa.	Stafford	Widnall
Rosenthal	Stephens	Wilson, Charles H.
Scheuer	Sullivan	Wydler
Selberling	Teague, Tex.	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ADAMS, 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. 1746, and finding itself without a quorum, he had directed the roll to be called, when 376 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair wishes to announce that at the time of the quorum call the gentleman from Illinois (Mr. ERLENBORN) had 1 hour and 2 minutes remaining and the gentleman from Pennsylvania had 47 minutes remaining.

The Chair at this time recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman and members of the committee, I would like to just ask a couple of questions either of the gentleman from California (Mr. HAWKINS) or the gentleman from Illinois (Mr. ERLENBORN). Really, the reason for the questions is I think that every lawyer who has had any opportunity to practice law has had occasion probably to try some cases before either the State or Federal agencies. To tell you the truth, my concern is about the procedure that has traditionally been followed in the case of administrative agencies particularly.

What I would like to ask—and I can see the gentleman from Illinois (Mr. ERLENBORN) is on his feet—is this: Under the committee bill am I correct that when a complaint is filed by an aggrieved individual, or if the Commission itself saw fit to file a complaint, they would have a right to do so? Then the person who is alleged to have violated the law would be the respondent. What I am interested in is this: Am I correct to the effect that he would appear before a hearing examiner? It is not made very clear in the bill when it talks about "agents."

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

Mr. RAILSBACK. I would be glad to yield to the gentleman from Illinois.

Mr. ERLENBORN. Under the present procedure the party who feels aggrieved may make a complaint to the EEOC. That complaint is then investigated to find out if there is due cause for the issuance of a formal complaint.

As a matter of fact, it has been the case in the past where it takes anywhere from a year to a year and a half before this initial investigation is completed, and a formal charge is filed. The same procedure would be continued under the committee bill. Under the committee bill then, if a formal complaint is issued, if reasonable cause has been found, then it would be assigned to a hearing officer for the introduction of evidence and a finding of fact.

Mr. RAILSBACK. Let me ask the gentleman from Illinois this question: Who would introduce the evidence on behalf of the Commission? Would it be somebody from the Commission, or would it be the hearing examiner, or how would that work?

Mr. ERLENBORN. It is my understanding that under the committee bill, attorneys would be appointed by the commission to represent the party who is making the charge. This attorney would offer the evidence on behalf of the plaintiff, which would then be passed upon or, rather, the admissability of the evidence would be passed upon by the hearing officer.

I might point out, however, although it has been alleged that the legislation is following the procedure of the NLRB, that it is not the same as that in the NLRB where there is an independent general counsel who represents the complaining party before the Commission. In the committee bill, the power to issue the complaint, the power to conduct the hearings, and the power to make decision is all lodged in the Commission; there is no independent counsel.

Mr. RAILSBACK. I would ask the gentleman from Illinois if this is another case where the hearing examiner will rule on the admissability of the evidence, and will rule on the objections and, in other words, it would be another case where they are going to act as practically the prosecutor as well as the judge and the jury?

Mr. ERLENBORN. If the gentleman would yield further so I may answer that?

Mr. RAILSBACK. I will be glad to yield to the gentleman.

Mr. ERLENBORN. The hearing officer will act as the judge. Before him, acting as the prosecutor, will be an attorney who represents the Commission. Both the hearing officer and the attorney represent the Commission, and they will act in behalf of and in the name of the Commission. When the hearing officer concludes the hearing he makes a final draft and prepares a proposed order.

Mr. RAILSBACK. Then his findings go to the Commission, and the Commission can either approve or disapprove of the hearing examiner's findings?

Mr. ERLENBORN. That is correct. And in the case where there is no complaint about an aggrieved party this would be pro forma. The Commission would review the order, review the hearing officer's findings of fact, and issue their order. If there were a complaint by an aggrieved party there would be a more formal procedure for the Commissioners to review.

But I would point out that if this follows the pattern of the NLRB, the hearing officer's findings would be sustained in 90 percent of the cases.

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

Mr. ERLENBORN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I

thank the gentleman for yielding me the additional time.

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

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

Mr. MAZZOLI. Mr. Chairman, I would like to bring up this point, since the gentleman is on the area of the committee bill, the significant statements which appear in the precis, or the description of the committee bill, H.R. 1746. These statements indicate that, in the institution of the action, the requirement that an aggrieved person's charges be made under oath, has been deleted. Presently under the existing law the aggrieved person has to make his charges under oath. This has been deleted by H.R. 1746.

In addition, the gentleman mentioned about the Commission when it initiates action. In this case the Commissioners' charges do not have to be based upon a reasonable cause to believe that a violation has occurred, so that the action against an alleged defendant, a party who has allegedly discriminated, can be made first by a complainant not under oath, and then by the Commission without reasonable grounds to believe that a violation has occurred.

Mr. RAILSBACK. Let me ask the gentleman this question. Once the Commission makes a determination, am I correct that if there should be an appeal, and I believe it is to the court of appeals, would that appeal be based upon only the record of the hearing examiner as reviewed by the Commission? In other words, it is not a new trial, it is simply based on the particular record? Am I correct?

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield, this is my understanding. Upon review, this is a simple review of what was elicited below, which in many cases are charges not made under oath.

Mr. RAILSBACK. Am I also correct that the court of appeals must uphold the Commission if there was not the regular degree proof but only substantial proof in support of the allegation.

Mr. MAZZOLI. Yes; this is my understanding. It is based on the evidence from the record as a whole and not on any area of the evidence, but just what appears in the record.

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

Mr. ERLENBORN. Mr. Chairman, I yield the gentleman from Illinois 2 additional minutes.

Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman.

Mr. ERLENBORN. Let me just expand on this a bit. I think the answer you have received is correct. I would point out, however, that the rules of evidence, the rules of civil procedure that apply in the courts, the Federal district courts, as my bill would require any case to be tried there, those general rules of evidence do not necessarily apply in the administrative hearing. If an appeal is taken, it must go to the circuit court of appeals. There is no new evidence adduced. It is the hearing record and as it is said in the committee bill, the finding of the Commission and the order must be sustained if it is supported by substantial evidence. That does not even mean the greater weight of evidence—any substantial evidence in the record would then be incumbent upon the circuit court of appeals to sustain the Commission's finding.

Mr. RAILSBACK. I just want to say, I think I have supported almost every civil rights measure. Frankly, my objections to the committee bill have nothing whatsoever to do and are not even related to the particular department that we are trying to arm with this right. As a matter of fact, I think I would vote to completely restructure our entire administrative agency system. It bothers me—I have had a chance to try cases before the Social Security Administration. When you take a case in there and are trying to claim certain disability benefits, you are introduced to the hearing examiner. In that case, he introduces the evidence of the Social Security Administration and he rules on your objections or he overrules your objections. He rules on the evidence and he makes the findings and, in my opinion, they act as judge and jury and prosecutor and then the record you have and take up on that case to the Federal district court on is simply the record that he has had an opportunity to make rulings on and the adminstrative agency.

It seems to me, for that reason alone if for no other reason, even though I want to see the EOC given enforcement powers, that the Erlenborn-Mazzoli substitute is far preferable to the committee version.

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

Mr. PERKINS. Mr. Chairman, I yield the gentleman 1 minute.

Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman.

Mr. PERKINS. First, let me state that the substantial evidence rule that is required here in the review court, that is the circuit court of appeals, under the committee bill, means substantial evidence—not that the court is substituting its judgment for the Commission but rather whether considering the record as a whole there is substantial evidence to support its finding. If the court is of the opinion there is not substantial evidence, the circuit court of appeals as a matter of right sets aside the findings of the Commission.

That is what the word "substantial" means.

Mr. RAILSBACK. The rule does not require a preponderance of evidence.

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

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

The CHAIRMAN. The gentleman from Kentucky is recognized for 1 minute.

Mr. PERKINS. As I interpret the word "substantial" as used in the statute, it means, considering the entire record as a whole the Commission's findings must be supported by substantial evidence. A court is going to set aside findings unless there is substantial evidence to support the findings of the Equal Employment Opportunities Commission—substantial and not anything less.

So I think the rights of the parties are adequately protected when we require that the evidence be substantial.

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

The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. RAILSBACK).

The CHAIRMAN. The gentleman from Illinois (Mr. RAILSBACK) is recognized.

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

Mr. RAILSBACK. I yield to my colleague.

Mr. ERLENBORN. Just briefly, because I would like to set to rest this question and to correct the statement of the gentleman from Kentucky, who has said that it requires a greater weight of the evidence. I think the gentleman from Kentucky is a good enough lawyer to know that when you say "substantial evidence," it is not the greater weight of the evidence. It is a lesser degree. We know from NLRB court decisions that it is not the greater weight of the evidence.

Mr. RAILSBACK. Not only does it deal with substantial evidence, but it is evidence that was derived from a proceeding that involved a hearing examiner appointed by the Commission who ruled on the objections, who ruled on the admissibility of evidence, and who made the findings of fact which for the most part are never overturned by the reviewing tribunal. To my way of thinking there is nothing fair about that kind of procedure, and I just point out to the chairman in this particular case those of us who favor civil rights may prefer something like this, but in a case when you are representing a social security beneficiary who is claiming for total disability, which is very similar, it is a rather frustrating thing. The same thing is true with the Bureau of Internal Revenue when you deal with them.

All I am saying is that it seems to me you are much better off with a fair and impartial tribunal.

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

Mr. RAILSBACK. I am glad to yield to the chairman.

Mr. PERKINS. The findings of the Commission under the committee bill can be entirely separate. They are not bound by any findings of the hearing examiner that may be designated by the Equal Opportunities Commission. It is a de novo proceedings.

Mr. RAILSBACK. Does the gentleman really deny that the Commission disagrees with those findings in not more than 2 or 3 percent of the cases?

Mr. PERKINS. When the findings are appealed to the circuit court of appeals we then see that the word "substantial" becomes significant. By "substantial evidence," we mean evidence of substantial nature and not the scintilla rule as some have attempted to argue.

Mr. RAILSBACK. Mr. Chairman, I would like to add my support to the Erlenborn substitute bill—H.R. 9274—which in effect would empower the Equal

Employment Opportunity Commission to take its discrimination cases to the Federal courts. This bill would give employees the opportunity to be examined through the trial process of the courts where opposing arguments may be heard objectively and decisions reached according to the governing law.

The Equal Employment Opportunity Commission has been created under the Civil Rights Act of 1964, to help those people who have been denied employment, promotion, union membership, or other job, related opportunity, through discrimination based upon race, color, religion, sex, and national origin. The law, however, limits the EEOC to investigation, mediation, and conciliation powers only. And up to this point, the enforcement powers for the EEOC have not been defined. We seek to correct this deficiency today.

The bill proposed by the gentleman from Illinois provides for the EEOC to take its discrimination cases into Federal courts whereas the committee bill, H.R. 1746, would allow the EEOC to issue cease-and-desist orders. By combining cease-and-desist powers with authority to issue back pay and affirmative action orders, the EEOC under H.R. 1746 would be transformed into a quasi-judicial body. I have serious reservations whether the administrative hearing approach is the better means for resolving employment discrimination cases.

In the first place, the combination of advocacy and prosecution within the same small organizational structure makes attaining a system of impartial adjudication quite difficult, particularly in view of the strong advocate role EEOC has played in the past.

In addition, quasi-judicial bodies typically must resolve competing interests and it is my opinion that employment discrimination is not of such a nature as to be termed an "interest" under our system.

Experience has shown that legal arguments are not always effectively brought forth under our present system of administrative hearings. Furthermore, the procedural rules governing administrative hearings are virtually nonexistent.

Although there may be some dispute as to how efficiently the administrative hearing process versus the court enforcement process may be, my experience would certainly be that the court approach is by far the most expeditious and effective means for handling EEOC type cases.

Lastly, although appellate review would be allowed, the court entertaining the review would be limited to the hearing record and would be required to affirm the Commission's ruling upon a finding of any evidence supporting its decision.

For these reasons, I am convinced judicial enforcement will provide the best means to carry out the purposes of equal employment opportunities.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, I wish to make clear at the outset that I support giving the Equal Employment Opportunities Commission, the EEOC, the enforcement authority it now lacks.

I would also want to make it clear that there should be no effort to attempt to assess a Member's position on the legislation or on the Erlenborn substitute on the basis of who is more for civil rights. Both bills grant enforcement power. Both bills can be considered to be effective. Both bills, in my judgment, would fill a void in the present operation of the agency.

There are two issues that were raised between the substitute and with the committee bill, but there has been, as a result of the insertion in the RECORD yesterday by the distinguished chairman of the subcommittee and the colloquy that has taken place today, a third issue that has been raised in the committee consideration of these two bills, and it is that third issue on which I shall touch first.

I admit to being absolutely appalled at the amendment which the distinguished gentleman from Pennsylvania intends to offer, which is aimed at subverting the Philadelphia plan and the Office of Contract Compliance's effort to carry forward an affirmative action program.

I do not understand on what basis, except perhaps the basis set forth on pages 304 and 305 of the hearing record by the gentlewoman from New York (Mrs. CHISHOLM) on the whole question of why in the committee bill the OFCC is proposed to be transferred intact to the EEOC. Let me quote what the gentlewoman from New York (Mrs. CHISHOLM) said during her appearance before the committee, and I will use her own eloquent statement:

> However, if labor really is serious and sincere about its support of EEOC having the OFCC powers, I ask them if they would support codifying the language in Executive Order 11246 and transferring that codified language to EEOC's mandate? If not, then I submit that labor's support is disingenuous. Thank you.

I think that is exactly the situation we are faced with here today. I think an effort has been made to end the other program designed to insure an increase in the ability of the minority people to gain some place in those trades in which the salaries are high and in which they have a certain opportunity to be skilled craftsmen in the society. I think it is a disgrace for it to come at this late hour, and it is a disgrace for it to come at this time in an effort apparently to pick up some votes. I intend to vote against it. I hope the House rejects it. The simple way to reject that amendment to be offered by the gentleman from Pennsylvania is to adopt the Erlenborn substitute and to settle the question once and for all. I urge all the Members of the House to support the substitute.

Let me just touch briefly before I yield, on why it is advisable to give the EEOC enforcement power to the court. I think the answer to that was given by the Chairman of the Equal Employment Opportunity Commission, Mr. Brown himself, in his statement before both the House and the Senate. He said:

> In the area of relief I believe that the district court approach is clearly and demonstrably preferable to the cease-and-desist method. The pertinent yardstick is the amount of time an aggrieved person must wait before he is afforded relief, either temporary or permanent. . . . Under the District Court approach, if one prevails before the court, he is entitled to an immediate injunction and other relief to bring about a rapid end to the discriminatory practices proved at the trial. . . . As a matter of practice, this would not be the case under the cease-and-desist approach.

I do not think anyone needs more than that simple statement by the Chairman of the Commission as to why the Erlenborn method is superior in handling the problem.

I think we ought to make clear in any understanding of this whole issue that any effort to try to say there is going to be any backlog increase in the courts as a result of its passage is wrong. What we are talking about is what kind of power do we grant that will enable the Commission to do a better job in voluntary compliance. I would argue the district court approach rather than the cease-and-desist approach would bring about effective voluntary compliance with the orders of the Commission.

There is one other point I want to make and that is to suggest that while attention may be paid to the question of what kind of enforcement power we give, there are three other matters in the committee bill that deserve consideration. The one I have touched on is the transfer of enforcement power by OFCC to EEOC which I think is a mistake. I will not take the time of the committee to detail the reasons which relate to the genesis of the two agencies, their differing guidelines and different purposes. Second is the transfer from the Civil Service Commission the authority to handle discriminatory practices within the Federal Government which would be brought in under the committee bill to EEOC and which, I think, would effectively disrupt any rational means of effectively dealing with employer-employee relationship within the Civil Service Commission. And lastly, there is the whole question of transferring the pattern and practice suits from the Justice Department to EEOC. I think the record of the Justice Department in handling the pattern and practice suits is evidence of their dedication, determination and of their ability to handle the authority that was granted in the Civil Rights Act of 1964.

I find no substantive reason to transfer that jurisdiction. I have found no reason in the hearings or in anything said on this floor as to why there ought to be a transfer of that authority. Therefore, I believe it would be a mistake to do it.

For these reasons I support the substitute offered by the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Kentucky (Mr. MAZZOLI). I urge the House to adopt it on the basis that it is the most effective and fair method of giving the EEOC enforcement powers.

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

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

The gentleman made a comment during the course of his remarks to the effect that some Members or some parties were selling out on the question of civil rights, if they were either to support or not support an amendment to which he was referring. Would the gentleman clarify that?

Mr. STEIGER of Wisconsin. Yes, I shall be happy to.

We have voted once on the question as to whether or not to try to take away from the OFCC its power to have an affirmative action plan. The House turned down the effort to strip the OFCC of that power.

The amendment which is proposed to be offered by the gentleman from Pennsylvania would, in my judgment, strip away the ability of the OFCC to carry out the mandate of Executive Order 11246.

As the gentlewoman from New York said in her testimony before the committee, there is apparently an effort underway by the AFL–CIO, which wants to take the OFCC out of the business of the Philadelphia plan, and turn that power over to the EEOC. Now we see the end product, which is to strip away from the OFCC any ability to follow through on that plan.

Mr. CONYERS. What about the sellout analogy if this House does not ratify its support of the procedures embodied in the Hawkins bill which was passed in the 90th Congress? Is that a sellout of civil rights?

Mr. STEIGER of Wisconsin. Of course, it is not a sellout of civil rights. Both bills grant enforcement power to EEOC. It is a total missing of the mark if one is going to argue that the Erlenborn substitute is a sellout of civil rights, and the gentleman knows it.

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

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from Pennsylvania.

Mr. DENT. If the gentleman says that the CIO or the AFL or some other organization or person is asking that the authority of the Office of Contract Compliance be taken out, and all its appurtenant power, they did not ask me to do that. Did they ask the gentleman?

Mr. STEIGER of Wisconsin. Did they ask me? Since I did not sponsor the bill offered by the gentleman from California, of course, they did not ask me. But the AFL–CIO did appear before the subcommittee and indicated its approval of the transfer section of H.R. 1746.

Mr. DENT. They did not ask me. I am sure I have some opposition in some of the trade and craft unions to the position I take.

Does the gentleman say that the Office of Contract Compliance has a power even above that which we are accused of trying to give to the EEOC? It seems to me that the gentleman is saying that the Commission will become judge, court, and jury if we give it cease-and-desist power.

Mr. STEIGER of Wisconsin. I did not say that.

Mr. DENT. But the power inherent in the hands of the Office of Contract Compliance under the Executive order makes it judge, jury, court, and jailer, because without any kind of review, and with absolutely no opportunity for an appearance, it can come in on a million dollar contract, or a $250 million contract, or any Government contract, and say to the contractor, "Either you do this, you take so many of this particular group in this category, or your contract is null and void."

What kind of power is that? Where under the Constitution is that right?

Mr. STEIGER of Wisconsin. May I say to the gentleman from Pennsylvania, as chairman of the subcommittee, the argument would have somewhat more substance were the gentleman to have attempted to codify the powers of EEOC in the statute. He has not done it. What he is doing is attempting to transfer the authority from the Executive order into EEOC.

Mr. DENT. They are codified. They are enforcible and workable.

Mr. STEIGER of Wisconsin. The gentleman is going to enforce them on the basis of the Executive order. Do not argue about that power, for you have not attempted to do anything with it.

Mr. DENT. Can the gentleman answer the question?

Mr. STEIGER of Wisconsin. Which one?

Mr. DENT. Does the gentleman believe that the Executive order in the hands of the Office of Contract Compliance is a power which should be given to any agency of Government?

Mr. STEIGER of Wisconsin. I believe their power is appropriate, constitutional, and legal.

Mr. DENT. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I appreciate the opportunity of speaking to the House today, and I would like to express my appreciation to the chairman, Mr. DENT, for his yielding some of his very valuable time.

I would like to spend the few minutes that I have to put a few things in perspective, perhaps.

It has been mentioned earlier today and it will be mentioned for the remainder of the day that those who are for the Erlenborn-Mazzoli substitute are against civil rights and those who are for the committee bill are for civil rights. I certainly do not think that is a fair characterization of the work we did in committee, and I suggest that Mr. ERLENBORN and I have produced a very adequate and I believe a very realistic substitute.

I hope that the members of this committee in judging the issues and the amendments will consider this not to be a civil rights matter but, rather, consider it to be a philosophical matter of whether cease-and-desist powers granted by the committee bill are superior to the court enforcement authority granted under the Erlenborn-Mazzoli substitute.

The course of the debate today touched on a lot of issues. I would like to mention a couple that I believe are very important to an adequate understanding of the bill.

First of all, it has not been brought out—and this is very important—that the substitute does not change the present EEOC operations with respect to courage of State and local government employees. Under the substitute, State, local, and municipal government employees would not be covered by the EEOC. I feel—and it is so said in our report—that there is an interposition under the committee bill which I think is disastrous, that is, the interposition of the Federal Government into State and local matters. You tell the State and local governments what they can do and what they cannot do. I do not think that is correct.

I urge the committee to study carefully that provision in the committee bill which would, if adopted, affect all of the State and local government employees.

I would like to mention, also, that we were here earlier this afternoon and heard——

Mr. DENT. Will the gentleman yield to me for a question?

Mr. MAZZOLI. Yes. I yield to the gentleman.

Mr. DENT. You say that we should not inject ourselves into State and local matters. Then, would you also say that we should remove from the jurisdiction of the EEOC all those companies that do not do interstate business, because intrastate business has just as much right to be exclusively under State and local government as any other? So you would make it completely read that it affects only those that are in interstate business.

Mr. MAZZOLI. Mr. Chairman, there can be an argument made on that, but it seems to me that we talk about the unwarranted interposition, the unnecessary interposition. I believe that is what this bill does. Unwarrantedly it interposes the Federal Government into State and local matters.

I would like to mention something that we talked about earlier today.

The gentleman from Illinois (Mr. ANDERSON) made a very eloquent speech in behalf of the committee bill and he said that we could not afford to adopt this substitute because it would overburden the Federal court system. I am wondering if perhaps in trying to avoid overburdening the Federal court system, we will overburden alleged defendants. On page 11 of the committee report, which I would ask the Members to read, it is stated:

> Administrative tribunals are better suited to rapid resolution of such complex issues than are Courts. Moreover, administrative tribunals are less subject to technical rules governing such matters as pleadings and motion practice—which afford opportunities for dilatory tactics—and are less constrained by formal rules of evidence—which give rise

to a lengthier (and more costly) process of proof.

And, it further says:

In addition, past experience with administrative hearings and court enforcement indicates that cease-and-desist would be more effective. Experience has shown that one of the main advantages of granting enforcement power to a regulatory agency is that the existence of the sanction encourages settlement of complaints before the enforcement stage is reached.

Which means, Mr. Chairman, that there is a huge bludgeon or huge mace waiting on the sidelines to hit you over the head and, therefore, quick settlements are made as a result of the coercion.

Mr. Chairman, I would certainly feel that there must be enforcement powers granted to the EEOC, but it does seem to me that a much more orderly, much more structured, more rational and realistic resolution of this enforcement question is through the Federal courts.

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

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

Mr. ERLENBORN. Mr. Chairman, I yield myself 15 minutes.

Mr. ERLENBORN. Mr. Chairman, we have before us the committee bill, H.R. 1746, and as provided for in the rule under which this debate is proceeding, H.R. 9247, the Erlenborn-Mazzoli substitute which is made in order as a substitute and which will be offered as a substitute for the committee bill.

Mr. Chairman, both of these bills have the same purpose; and, that is to give to the EEOC an opportunity to exercise some power of enforcement in the field of civil rights under title VII of the 1964 Civil Rights Act.

The 1964 Civil Rights Act was the product of compromise, as is most legislation of any controversy on the floor of this House and or in this Congress. A part of the compromise in passing that bill was in the creation of the EEOC, but no power to enforce was granted to the Commission. When the bill was passed it was a year subsequent to the passage of the bill before the Commission went into business. It has been active since 1965. In the intervening 6 years over 50,000 cases have been filed before the Commission.

I think it is important to note that more than half of these over 25,000 cases are still pending and unresolved.

There may be several allegations made as to why this deplorable situation exists. One is that the Commission cannot resolve these cases where all it is empowered to do is to bring the parties together in the process of conciliation, because they do not have the power of enforcement. I think this is a part of the reason. Frankly, that is why I joined with the gentleman from Kentucky (Mr. MAZZOLI) in drafting a bill that would give them enforcement authority.

There are other reasons. However, if you look at what the Commission has done in the intervening 6 years there are other causes for its great backlog.

The Commission, historically, takes a year and sometimes a year and a half in investigating charges before due cause is found and formal complaints and charges are filed, and though the law requires that notice be given to one against whom the complaint has been filed, it has been the practice of the Commission in the past to wait that year or a year and a half before notice is given to the one against whom the complaint is filed, whether it be the employer, the union, or the company.

I think this is deplorable. This denies to the party charged the opportunity to try to resolve the question at an early date. Maybe, if timely notice were given we would not have as many cases presented, maybe these cases would be resolved. But if they were not resolved, at least the element of due process would be introduced in giving notice to the party charged that he would have the opportunity to gather and preserve the evidence with which to sustain himself when formal charges are filed and subsequent enforcement proceedings are instituted. That has not been the case.

Mr. Chairman, I feel that minimum standards of due process require that notice be given when charges are made against the party involved. This is not true in the present law and it is not true in the committee bill.

I offered, as an amendment to the committee bill when it was in the subcommittee, and the full committee, an amendment that would provide for timely notice. This was rejected out of hand. But now the gentleman from Pennsylvania does say at this late date, yesterday, when he put in the RECORD, and today when I finally saw a copy of his amendment, that he intends to offer an amendment for timely notice. At this late date I am glad to have this support for this amendment allowing due process.

And, talking about due process, I think there are other elements involved in this proposed cease-and-desist authority that the committee bill would give to the EEOC.

Mrs. GREEN of Oregon. Mr. Chairman, would the gentleman yield?

Mr. ERLENBORN. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, it does seem to me that a word should be given in explanation of the committee's action and the amendments to be offered by the gentleman from Pennsylvania, the very capable and the very fair chairman of the subcommittee. The gentleman from Illinois knows that I did not support the bill in committee. I filed minority views and they are in the committee report. Other Democrats supported some of the amendments offered by the gentleman from Illinois. They were defeated. I offered amendments to the committee bill. They were defeated.

During all the years that I have worked with the gentleman from Pennsylvania, he has been very fair, and he has never broken his word to me on any occasion—I think the gentleman from Illinois will recall that Mr. DENT was having major surgery at the time the committee considered the bill in subcommittee and in the full committee. He was in the hospital; he was not able to work with the gentleman from Illinois or me or others. He was not able to offer the amendments that he is offering on the floor during this debate.

They are being offered in good faith. In my judgment, had the gentleman from Pennsylvania been there and not in the hospital, he would have worked with several of us in working out some of these points that we now have to work out on the floor of the House.

Mr. ERLENBORN. Mr. Chairman, I thank the gentlewoman for her contribution. What the gentlewoman says is correct insofar as the fact that the gentleman from Pennsylvania was not there, and that he was ill, and I am sorry for that. But there were all of the other members of the majority on the subcommittee and the full committee there. The gentleman from California had been designated to handle the bill.

I make the point that in the subcommittee and in the full committee I offered this amendment, and I make no allegations against the gentleman from Pennsylvania. I did not originally, and I do not now. I say the subcommittee and the full committee rejected this amendment out of hand, and that is the fact, and it is on the record.

Talking about due process, there is another element involved. The cease-and-desist approach I think as has been very well pointed out by the gentleman from Illinois (Mr. RAILSBACK), involves what he and I—and I hope the majority of the members of this committee would think—is something less than optimum due process. The committee bill grants to the Commission the power to receive complaints; grants to the Commission the power to investigate complaints; grants to individual Commissioners the power to file complaints; grants to the Commission the power to prosecute, to adduce evidence; grants to the Commission the power to pass upon those elements of evidence that are introduced; grants to the Commission the power to fashion the remedy in the form of a cease-and-desist order.

Now, it is said that under the Administrative Procedure Act there is a hearing officer, and therefore this introduces an element of fairness. It has been said that the committee-structured bill is designed after the procedure that is followed in the NLRB. I would point out that this really is not quite accurate. Yes, there is a hearing officer appointed, but under the NLRB actually, as a matter of experience, it was found that it was desirable to have a separate prosecutor, and not to have the Board be both prosecutor and judge.

So in the NLRB you have the Office of General Counsel independent of the Board. You have there a division of the power to prosecute from the power to judge. In the committee bill this division is not followed, the pattern of the NLRB is not followed. We have the commission which investigates the cases with both the power to prosecute and the power to issue orders, and pass upon the sufficiency of the evidence.

It is said an appeal is available, you can get into the courts. You can, yes. But as the gentleman from Illinois (Mr.

RAILSBACK), pointed out, it is not as if you were to go to the district court for a trial de novo, and to have evidence taken, evidence of a quality that would be protected by the civil practice procedures in the Federal district court. You go to the circuit court of appeals for a review of the record that has been adduced before the hearing officer.

You do not bring new evidence in. You look at the evidence, the quality of which has not been protected by the same rules of practice, and then the circuit court of appeals under the committee bill does not even weigh that evidence to see where the greater weight of evidence lies. The circuit court of appeals must sustain under the language of this act the findings of the hearing officer—the decision of the commission—if there is substantial evidence—not the greater weight of evidence.

The chairman of the committee when he tells us that the two are the same belies the fact that he is an excellent lawyer and he knows different.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield,

Mr. ERLENBORN. I yield to the gentleman.

Mr. ECKHARDT. This is a point I think needs clarification. The gentleman will concede, will he not, that the rule with respect to substantial evidence in the committee bill is the same rule substantially as that in the Labor Relations Act.

Mr. ERLENBORN. Yes, I do concede that. But again I reiterate it is not the greater weight of evidence. I am addressing myself to the statement made by the chairman of the full committee (Mr. PERKINS), when he said it was the greater weight of evidence.

I would ask the gentleman from Texas, since he posed the question to me, to answer my question—do you agree that the chairman of the committee was correct when he said that substantial evidence requires that it be the greater weight of evidence?

Mr. ECKHARDT. I would merely state that the general rule basically is governed by the case of the Universal Camera Corp. against the National Labor Relations Board.

Mr. ERLENBORN. Will the gentleman give me a simple "yes" or "no" answer?

Mr. ECKHARDT. This is very brief and it simply says that the findings of the Board as to whether or not it is supported by the evidence shall be conclusive.

The court wrote "evidence" to mean "substantial evidence." We said substantial evidence is more than a mere scintilla—it means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, citing Consolidated Edison.

Accordingly, it must be more than to create a suspicion of existence of the fact to be established. It must be enough to justify if the trial were to a jury a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.

That is the rule, as I understand it.

Mr. ERLENBORN. I thank the gentleman for his contribution, but he still has not answered my question whether it was the greater weight of evidence or not. I still contend that the gentleman from Kentucky is a better lawyer than to say that "substantial evidence" is "greater weight of evidence."

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman.

Mr. STEIGER of Wisconsin. Would the gentleman from Illinois be willing to translate the answer of the gentleman from Texas into language that a nonlawyer might understand?

If I heard the answer correctly—to the question you have asked—"Is substantial evidence the greater weight of evidence?" and he came back and said, "No".

Mr. ERLENBORN. I think the gentleman is correct—he did say, "No."

Mr. STEIGER of Wisconsin. I thank the gentleman.

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

Mr. ERLENBORN. I yield to the gentleman.

Mr. HAWKINS. You said under the law the court would not only review the evidence presented to the Commission in the commission hearing, and it would be required to sustain the commission if there were any evidence supporting its findings. That is not a true statement.

Mr. ERLENBORN. Mr. Chairman, I do not yield further to the gentleman.

Mr. Chairman, I would like to continue with my argument concerning the committee bill.

There are other elements in this bill other than the question of which types of enforcements are most desirable.

The committee bill would transfer to a commission that is already overburdened with half of the cases that have ever been filed with it thousands of cases that are still pending and that are still unresolved—it would transfer additional jurisdiction—jurisdiction now possessed by the Civil Service Commission relative to equal employment in Federal employment would be transferred to the EEOC. New coverage of employees of State and Federal Governments would be provided to the EEOC.

In addition, the authority to proceed in practice or in pattern cases now exercised by the Justice Department would be transferred to the EEOC and, I think, most important of all—and I think we have made the point fairly adequately today already—the jurisdiction exercised by the Office of Contract Compliance in the Department of Labor would be transferred to the EEOC.

I think it is important to understand what the jurisdiction of the Office of Contract Compliance in the Department of Labor is. The Office of Contract Compliance is not enforcing title VII rights. The Office of Contract Compliance authority is derived from an Executive order. The jurisdiction of the EEOC is under the 1964 Civil Rights Act, and it is to enforce those constitutional rights of equality that the court has found to be within the realm of enforcement that we are seeking to grant the enforcement power to the EEOC.

These are basically constitutional rights and statutory rights under the 1964 act. It regulates the conduct of affairs between individuals and their employers.

The OFCC is an altogether different type of jurisdiction. It is not based upon constitutional rights. It is not based upon statutory rights.

The genesis of the power of the OFCC is the contractual relationship that exists between the Federal Government and those with whom they contract for the acquisition of goods and services. In this jurisdiction the OFCC can and does go beyond those powers granted by the 1964 Civil Rights Act. I think it is important to note that the chairman of the Equal Employment Opportunities Commission himself has testified that you cannot mix these two enforcement authorities. He testified before our committee this year against the transfer of OFCC jurisdiction. Chairman Brown testified against the transfer of the pattern or practice jurisdiction exercised by the Justice Department, and he testified in favor of the court-enforcement approach that Congressman MAZZOLI and I have embodied in H.R. 9247.

There are one or two additional points I would like to make. I have talked about the timely notification to a party who is charged. We find also that a party who is charged and goes through the present conciliation process can also be subject to private action under the present 1964 Civil Rights Act. If the complaining party loses that case, another suit may be filed in proper circumstances by that same party before the NLRB. If the complainant loses that case, a fourth action can be filed under the old Civil Rights Act of 1866.

In other words, there is a plethora of forums to resolve these complaints, no one of which is exclusive, and it can happen that a multiplicity of cases arising out of the same set of facts can clog the courts.

We would provide in our substitute bill that title VII be the sole method of enforcing these rights. There would no longer be recourse to the old 1866 civil rights act. We also would affect a limitation on liability, a statute of limitations. At the present time there seems to be no limit to how far back pay awards can be made on behalf of a party who wins one of these actions, except to the beginning of the act, which has the effective date of 1965.

We have class actions where the commission admittedly encourages individual complainants to file suits on their own behalf and for the entire class that may be similarly affected.

This, plus the liability of backpay without limitation, would create an horrendous potential liability. We would provide a limitation on liability through a 2-year statute of limitations. I would admit again that the majority as represented by the gentleman from Pennsylvania has said, belatedly, that if they are given the opportunity, they would also apply a 2-year statute of limitations.

But my attempt to have that adopted in committee was rejected.

We would also provide in a class action a limitation so that those who join in the class action or those who by timely motion intervene could be considered as the proper class, but not all who may be similarly situated but who are not even aware of the fact that a case has been filed.

We feel that, because we have greater elements of due process, because we would give the enforcement authority to the Federal district court—where, in our opinion, timely relief can be given to the complaining party—our approach is preferable.

I would point out, contrary to what the gentleman from Illinois, Mr. ANDERSON, said, that those areas where we have the greatest number of EEOC complaints are not the same areas where we have the greatest backlog in the district courts. I refer the Members to the minority views in the report of the committee.

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

Mr. ERLENBORN. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, this is now directed to the argument raised by the gentleman in the well, and the gentleman from Kentucky, and the gentleman from Wisconsin, to the effect that cease and desist power should not be given to the EEOC. I have simply two questions. Would the gentleman be in favor of withdrawing cease and desist powers from the Federal Trade Commission and from the Securities and Exchange Commission and from other commissions?

Mr. ERLENBORN. I think I understand the gentleman's question. Let me respond to the gentleman. I do not have a great deal of time. I understand what the gentleman's question is. I think there are two types of Federal agencies that have cease and desist powers. Primarily they are regulatory agencies. The only exception in the Federal Government that has that authority is the NLRB.

The answer is yes, I would withdraw the cease and desist power from the NLRB. I would rather have those cases resolved in court.

I would point out under the committee bill, which is also the procedure under the NLRB, the cease and desist orders are not self-enforcing. The only time one gets enforceable orders under the NLRB or under the committee bill is if one goes to the court. That is the only place to get effective relief. That is recognized in the NLRB. They issue an order. It is not self-enforcing. They must then go to the Circuit Court of Appeals.

It is also true that before our Education and Labor Committee, at the same time we were considering giving cease and desist type authority to EEOC, another subcommittee was considering the question as to why there was a great backlog on cases and a denial of justice in the NLRB situation. Even after the NLRB issues an order, even after they go into court, a year or a year and a half lapses before it gets to effective judicial relief to the parties.

Mr. FAUNTROY. I have asked the gentleman a two-part question.

Mr. ERLENBORN. I have answered one, I hope.

Mr. FAUNTROY. I asked if the gentleman was in favor of withdrawing the enforcing authority of the Federal Trade Commission?

Mr. ERLENBORN. I understand the gentleman's question. Let me respond to the gentleman. Mr. Chairman, I do not yield to the gentleman further.

I would say, in response to the gentleman's question, the Federal Trade Commission at this very time has recommended to this Congress legislation they sent up requesting the authority to go into the Federal district court. They exercise cease-and-desist authority. They have found it is not the best way to approach enforcement, and the Federal Trade Commission today is asking that we give them the kind of power that H.R. 9247 would give the Equal Employment Opportunity Commission.

Mr. Chairman, we feel, and I think with good reason, that the cause of due process would best be served and the best type of enforcement authority would be given the Equal Employment Opportunity Commission if our substitute H.R. 9247 is adopted. We feel the committee bill goes far afield in giving additional jurisdiction to a commission already overburdened and, under their bill, it will be given new duties to perform.

We also feel that the cause of due process will best be served if our substitute is adopted providing a limitation on class actions, providing timely notice so that the parties may defend and protect themselves, and providing a statute of limitations so that back-pay awards cannot be rendered in the year 2000 all the way back to the year 1965, as the courts apparently are holding at the present time.

For these reasons, I hope that this committee will support the substitute bill when it is offered, and I hope that then, as provided in the substitute bill, the enforcement authority will be given to the Commission by the passage of the bill.

Mr. DENT. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. Mr. Chairman, I only wish I had a sufficient amount of money, I wish that I were independently wealthy, so that I could have packed in the galleries today the thousands of cases I know of the poor and the black and other minorities who have sought to work within the system, who have sought to avail themselves of administrative redress, and have found that the administrative agency far too often turns out to be a paper tiger. They get no redress.

I wish that I had the power and the capacity to transport every Member of this House and all the visitors back with me to 1963, when serving as the executive secretary for the Maryland State Human Relations Commission, I went before the Maryland General Assembly asking that our State commission be given cease-and-desist power. All of the arguments, all of the fears, all of the shibboleths I have heard today were spoken, to then in our Maryland General Assembly. All of the arguments: That cease-and-desist power would create a powerful monster that will serve as judge and jury and prosecutor I heard in 1963.

I wish that you could go back with me to 1965, when we went to our Maryland General Assembly for cease-and-desist power for our State commission under our fair employment law: 1963 was public accommodations, and 1965 was fair employment.

All the same old arguments came up again. Once again we dealt with them.

Now, I must submit that our State Human Relations Commission does have cease-and-desist power in public accommodations, in fair employment, and in housing. That Maryland General Assembly gave that cease-and-desist power to that commission, recognizing that administrative review is far faster than judicial review call recognizing that administrative review under cease-and-desist power will yield far more consistent logic than would perhaps be yielded in the courts.

Let us admit to it: In our Nation, despite the fact that we have an objective of equal treatment under the law, the law is not equally administered in all regions in our country. The milieu of the region does indeed affect the administration of justice.

We were given cease-and-desist power under our State commission primarily because it was recognized that the cease-and-desist order is not a bludgeon, as the distinguished gentleman from Kentucky alluded to it as. It is not a bludgeon, but it is a psychological weapon calling for the decency of people to manifest itself so that there will be some redress.

This has been a long and tortuous debate this afternoon, and now we must deal with the realities. I believe I am advantaged over many of you in dealing with them, simply because I go to my district every night. I represent the Baltimore area and I can get there daily.

The questions asked me by whites run like this: "What is wrong with the black folks? Why are they not satisfied with the gains that have been made?"

And the question put to me by blacks in the district is, "When will the promises be fulfilled? When will there be a delivery on all the promises of the past?"

I heard my distinguished colleague from Illinois speak earlier today about his concern over the deepening fissure that exists in our society. It is a deepening one which is polarizing us day by day and hour by hour. I can almost feel it, and if you have any sensitivity left, you will be able to feel it, too.

How do you resolve this problem. You do it by delivering on the unfulfilled promise. You resolve it by giving to those agencies of the Government which have the charge to implement legislation and the power to do so effectively.

I heard someone say earlier today let us get the legislation through on a compromise. There are compromises presented to us, most of which are acceptable,

but on cease and desist there can be no compromise. The question that will be put by young black men and women and Mexican Americans and others is this: You have compromised and compromised and compromised, will you now finally compromise away my faith, my belief, my credibility in the system to deliver?

I see some of my colleagues smiling. I see them smiling as if I am saying something that amuses them, when they should be weeping. They should be weeping over the fact that in 1971 I stand here and you sit there debating over issues as to whether or not we shall keep the promise made, whether we will deliver.

The Erlenborn-Mazzoli bill does not deliver on that promise. This bill is another in the series of delaying actions and is another series of placating gestures that do not cut through to the core of the matter.

My time has run out for me and it may have run out for the rest of you in this body and for the rest of the people across the Nation who want to make democracy a whole entity.

I say reject the Erlenborn-Mazzoli amendment.

Mr. ERLENBORN. Mr. Chairman, at this time I yield 2 minutes to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I take this time to ask the chairman of the subcommittee a question for the purpose of establishing some legislative history here.

He will offer an amendment which will provide that the Commission shall be prohibited from requiring a quota for preferential treatment with respect to the numbers of employees or percentages of employees of any class, color, religion, sex, or national origin.

I am puzzled and troubled with the word "quota," because in the Philadelphia plan the administration had very stubbornly insisted, and there was extensive debate on the floor of the House here, that they were not using quotas in Philadelphia but they were using "goals." What I want to know is whether or not the use of the word "quota" here in this amendment applies to "goals" or any other phraseology which in effect would require an employer to employ a certain amount of people of various racial and ethnic categories mentioned here.

Mr. DENT. The gentleman asked me the question yesterday, and I looked up the word "goals" and I cannot find where goals has any specific meaning that would lend it to any plan which would say a certain number or quota. The word "quota" is a very plain word.

Mr. PUCINSKI. Does the prohibition against "quota" in this amendment apply to "goals" or to any other method or scheme used by the administrators of this act?

Mr. DENT. I would say the word "quota" and the prohibition of quotas in the Commissions' administration of the Federal contract compliance program means exactly what it is intended to mean, that under any condition this Commission cannot establish a set number or quota of workers in any category that must be present.

Mr. PUCINSKI. If they plead as they did in the case of the Philadelphia plan that they were not establishing quotas but merely establishing goals, this would be interpreted as meaning they are in violation of this act.

Mr. DENT. That is right, if what they are establishing is a quota or preferential treatment.

Mr. PUCINSKI. Now, do I further understand that this amendment, then——

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

Mr. DENT. Mr. Chairman, I yield the gentleman 1 minute.

Mr. PUCINSKI. Then, do I also understand that this amendment means that title VII which specifically prohibits the establishment of quotas would, indeed, apply to this act and to the actions of the Equal Employment Opportunities Commission under this act?

As the gentleman knows, in the case of the Philadelphia Plan, the court held that title VII did not apply because the plan was ordered under an Executive order.

Am I correct in concluding that this amendment would provide that title VII restrictions on quotas, goals, or any other schemes which may be used would apply to the Equal Employment Opportunities Commission?

Mr. DENT. The courts said that title VII of the civil rights bill do not apply to the Executive order. In other words, the Executive order supersedes both the Constitution as well as the law passed by the Congress of the United States.

What we are trying to do is bring the operations of the contract compliance program back within the law which Congress passed.

Mr. PUCINSKI. And, this amendment would bring title VII into this Commission's activities? In other words, if this amendment is adopted, the Commission cannot claim it as exempt from title VII of the civil rights act nor can the Commission require quotas or goals in assigning job distribution?

Mr. DENT. Right; it cannot require quotas.

Mr. PUCINSKI. I thank the gentleman.

Mr. ERLENBORN. Mr. Chairman, at this time I have no further requests for time. I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 1746, the Equal Employment Opportunities Enforcement Act, under which the Equal Employment Opportunity Commission will be enabled for the first time not merely to conciliate with employers who have engaged in discriminatory practices or to petition them at frustrating length, but to negotiate with them purposefully, from strength.

I strongly favor this bill over alternative measures because I am convinced that while discrimination in employment does not inevitably resist suasion to the point where judicial remedies are required, such discrimination does not invariably yield to words alone. There must be enforcement authority within the Commission, and the most appropriate type of enforcement authority in this instance is that of the cease-and-desist power. That power was originally contemplated by the drafters of the underlying legislation, and is long overdue.

Title VII of the landmark Civil Rights Act of 1964 prohibits discriminatory employment practices based on race, color, religion, sex, or national origin.

Until now the EEOC has relied chiefly upon persuasion to gain voluntary compliance with the provisions of title VII. Too often that approach has meant that the victims of discrimination have continued to be excluded from union membership or from raises and promotions, or excluded from rewarding employment altogether.

Between 1964, when it was established, and 1969 the Commission failed in more than half of the 35,445 cases it investigated to achieve even a partially successful conciliation agreement.

Moreover, discrimination is not abating, notwithstanding the promises of the 1964 Civil Rights Act. It is mounting yearly. In fiscal year 1969 the EEOC received 12,148 charges of discrimination; in fiscal year 1970, 14,129 charges. In the first 7½ months of fiscal year 1971, it had already received 16,644 charges. That is more than the number of charges received for all of fiscal year 1970, and already more than one-fourth as many as it received during the entire first 5 years of its existence.

Behind the impersonal statistics of charge, recommendation for investigation, and of cases unresolved there stand many millions of working people—women, blacks, Indians, chicanos, and other minorities—who are being thwarted, exhausted, and indeed, enraged by inequality, and whose invaluable skills are thereby lost to our society, if not set destructively against it.

For women and blacks the inequities left remedyless by the Commission have been particularly outrageous.

An EEOC report released in February 1971 revealed that in the building trades the percentage of black workers in 1970 had actually declined to 6.8 percent from 7.4 percent in 1969. Cease-and-desist power would enable the EEOC to secure compliance by the building trades with the goals of equality which the Civil Rights Act of 1964 rightly elevated into a national project.

Title VII specifically prohibits sex discrimination. But the disgrace of discrimination against women has been so pervasive that continuing almost up to the present it has borne the insulting status of a ridiculed injustice. In 1968 60 percent of women earned less than $5,000 but only 20 percent of men; 28 percent of men earned more than $10,000 but only 3 percent of women.

It is also a telling fact that while a woman with 4 years of college was earning, in 1968, an average of $6,694 per year, the average earnings of men with only an eighth grade education were almost the same, $6,580.

Against this background of widespread discrimination, an EEOC forced

principally to rely upon voluntary compliance is a frail and inadequate resort. The situation is summarized in concise terms in the report of the Committee on Education and Labor on H.R. 1746:

> It has been the emphasis on voluntariness that has proven to be most detrimental to the successful operation of Title VII. In cases posing the most profound consequencies, respondents have more often than not shrugged off the Commission's entreaties and relied upon the likelihood of the parties suing them.
>
> Facts, statistical evidence and experience demonstrate that employers, labor organizations, employment agencies and joint labor-management committees continue to engage in conduct which contravenes the provisions of Title VII. The existence of such practices demonstrates the immediate need to effectuate the purposes of the Civil Rights Act of 1964.

Not only is the number of cases of discrimination increasing every year, they are also becoming more difficult and complex. A pertinent example is the fact that the already unmistakable distress of our cities—some have called it agony—is being aggravated by a major new threat with obvious implications for the EEOC and H.R. 1746: the increasing migration of large and important companies to suburbia, leaving minority workers trapped, without jobs or decent housing, in ghettos.

During the 1960's the white population of the central cities declined, partly due to these transfers of businesses, by nearly 2 million people, while the minority population increased by nearly 3 million. This is exactly the kind of incendiary polarization which the Kerner Commission warned against in 1968:

> Our nation is moving toward two societies, one black, one white—separate and unequal. . . . Discrimination and segregation have long permeated much of American life; they now threaten the future of every American.

In the case of these large urban corporations, as well as in the area of employment discrimination generally, it is important not to disrupt seriously the employer-employee relationship or operations. Settlement out of court and, where at all possible, short of administrative enforcement, should remain the goal of the Commission. An important purpose of the EEOC is to enable employers and employees to live with each other without continuing bitterness and friction. In my view, therefore, the chief advantage of granting cease-and-desist power to the Commission is that the very possibility of this sanction would tend to stimulate settlement. This has been the general experience and value of administrative enforcement. In the NLRB, for example 95 percent of unfair labor practice cases are resolved administratively.

Using the possibility of administrative enforcement in order to secure settlement before enforcement is a tested procedure. It has supplied the effective foundation for regulatory agencies for more than three decades. It has been the mainstay, for example, of state fair employment practices commissions, the Securities Exchange Commission, the Federal Trade Commission, the National Labor Relations Board and the Federal Communications Commission.

Under H.R. 1746's cease-and-desist provisions both sides will know that the Commission's mediating role is backed if necessary by more compelling process. The employer will know that an unyielding or merely dilatory stance may result in the stigma and possible penalties of an enforcible Commission order. It will be obvious to both employer and employees that the Commission need not and will not permit itself to be exploited by either side for harassment or delay.

I have emphasized the cease-and-desist provisions of H.R. 1746 because they are so clearly the prime vehicle by which the bill would invigorate the EEOC. But H.R. 1746 would also enact two other quite fundamental changes in the present law, changes not contained in H.R. 9247. These provisions would broaden and consolidate the EEOC's jurisdiction.

First, the broadened jurisdiction would enable the Commission to cover 10.1 million State and local government employees now excluded from coverage by title VII of the Civil Rights Act of 1964. As of May 30, 1970, minorities accounted for 19.4 percent of the total number of Federal employees. But minorities constitute only 2 percent of individuals in the GS–16 through GS–18 grades. We are proud of our space program, but only 2.9 percent of NASA's employees are black. The Federal Aviation Administration employs 1,612 supervisory and administrative personnel. But only 13 of these individuals are black.

Jurisdiction under H.R. 1746 would also be expanded to include employees of educational institutions, presently exempted, and of unions and companies of at least eight workers or members, instead of the 25 required by present law. This latter provision would extend protection to 9.5 million workers not covered under the present law or under the proposed H.R. 9247.

Second, H.R. 1746 would consolidate within the EEOC the presently diffused responsibility for enforcing equal employment opportunity. Currently the Office of Federal Contract Compliance, the Civil Service Commission, and the Justice Department all exercise part of a frequently overlapping and confused obligation. As an example of this encumbering overlap, the committee report cites a 1969 court case, Zellerbach Corp. against United States, where the union and employer had settled with the EEOC but were then subjected to Federal court litigation, action by the Office of Federal Contract Compliance, and finally a suit by the Justice Department. Accountability to several overlapping authorities is mutually defeating. In practice it may result in no accountability.

I would like to emphasize the central importance in problems of employment relations of reaching a solution outside of court—given the legacy of bitterness and distrust often attendant upon protracted trials—and if possible before administrative enforcement. Specifically I would stress four points: First, the courts have neither the time nor the experience to be the principal forum for unraveling complicated discriminatory practice cases; second, court intervention is expensive, protracted, and disruptive for employer and employees alike; third, court action is least desirable where, as in EEOC matters, the parties are likely to be involved in an ongoing relationship that may only be undermined by the formalized procedural combativeness implicit in a judicial trial; and fourth, the EEOC has already acquired and will continue to accumulate the experience and insight which, bolstered by the cease-and-desist power, can best encourage meaningful settlement.

I do not believe business has any justifiable fears about the effect of H.R. 1746. Indeed, the processes which this bill would implement, would, I am convinced, save businesses time, money, and bitter personnel morale problems.

I support H.R. 1746 as a measure soundly designed in the overall interest not only of employers and workers, women and minorities, but of a free society which necessarily requires freely developed talent and industry.

Mr. NIX. Mr. Chairman, as perhaps in your own experience, I know from individual cases that treatment in employment for minority groups has not substantially improved since the 1964 Civil Rights Act.

In some cases, a better job might not be merited. But—of those with whom I have counseled—many committed themselves to a serious, expensive, and time-consuming effort to become trained and educated in order to qualify for particular employment. You can readily appreciate the disillusionment of an applicant who is rejected solely because of race, creed, color, or sex.

My own experience is corroborated by a newspaper article of Sunday last, headed "Report Finds Minority Job Bias Remains."

It was an Associated Press article, printed throughout the country. I assume many of you have read it, and I would like to ask permission to insert it in the RECORD following my remarks.

Solid research and statistics are available to substantiate the findings of the Equal Employment Opportunity Commission. The conclusion is that women and minority group workers—blacks, Spanish-surnamed Americans, orientals, and American Indians—still are largely underrepresented in the more remunerative jobs of private industry. We are all aware, too, the Federal Government has an even worse record in this regard.

Without stronger enforcement authority in the EEOC—with mere conciliation pressures available—we cannot hope to see improvement in the performance of that Commission.

And—if we do not provide the tools for it to improve its record—do not we, here in Congress, foster and exacerbate disillusionment and skepticism among the poor, the black, the women, all minority groups, and all those who have been rejected because of their religious beliefs or national origin?

As these fellow humans are delayed in their rights—thwarted in their striving to advance economically—their thoughts become the parents of the actions they will undertake.

We all know how injustices rancor. It does not have to be spelled out; after witnessing the destructive riots of the sixties.

The facts in discrimination are indisputable. I hope you have all taken time to read the House Report, No. 92-238 of June 2, submitted by our distinguished colleague, the gentleman from California (Mr. HAWKINS).

If you will but study this report, and the recent letters from Congressmen HAWKINS, OGDEN REID and JOHN DENT, I have every confidence you will today fully support H.R. 1746.

In addition to improving the EEOC procedures with cease-and-desist methods of enforcement, H.R. 1746 has other great advantages over the substitute bill that is being proposed here today.

H.R. 1746 would end the jumble of confusions in the field of equal opportunity by centralizing and coordinating the Federal Government's efforts in dealing with the problems of employment discrimination.

There are presently four Government agents dealing with such discrimination. The Department of Labor, the Attorney General, the Civil Service Commission and the EEOC all now process different phases of this problem. Consolidating all the functions relating to employment discrimination under the EEOC is not only a most logical step, but in the long run would prove to be the most efficient and least expensive.

In the substitute bill, H.R. 9247, decisions on employment discrimination would be routed through the already overburdened courts. It is obvious such cases can be processed with more expediency through the expert, bipartisan Commission, rather than becoming a juridical function.

I must finally emphasize that the Equal Employment Opportunity Commission is oftentimes the sole recourse, the only avenue for redress for those who are discriminated against; for those who will no longer meekly accept unequal treatment in employment—or any other phase of their walk in this world.

These are men and women altogether like ourselves—if rejected because of race, color, creed, or sex, we would surely ask why?—and why is it not corrected?

What a man feels intently—he will struggle to speak out of him—to see represented in visual shape. And this is what H.R. 1746 would be to many Americans: a reality they can read in the law to aid a man in his fight against economic injustice.

I ask all of you who believe in the principle of equality for all people to reject the substitute bill, H.R. 9247, and unanimously pass the bill recommended by the Committee on Education and Labor, H.R. 1746.

[From the Washington Star, Sept. 12, 1971]

REPORT FINDS MINORITY JOB BIAS REMAINS

Minority groups and women continue to be discriminated against by employers, the Equal Employment Opportunity Commission reported yesterday.

Data compiled by EEOC's Office of Research show that women and minority-group workers—blacks, Spanish-surnamed Americans, Orientals and American Indians—still are largely underrepresented in high-paying jobs of private industry.

Almost 8 out of 10 black male workers toil at the three lowest-level job classifications—semi-skilled operatives, unskilled laborers and service workers—according to a survey of private industry employers by the EEOC.

Black female workers fared slightly better. While 13 percent of the black males worked at white-collar jobs, 37.8 percent of the black women workers were in white-collar positions, the survey showed. Most of the black women engaged in white-collar work share the problem of women in general—that of being relegated to the lowest paying office jobs, the report said.

In 1970, women made up 34 percent of the total working force, but only 2.7 percent held managerial positions, as opposed to 12.4 percent of the men, EEOC said.

Among black males, only 1.7 percent held managerial or policymaking jobs, while only 1 percent of the Spanish-surnamed American workers were in the managerial category.

Mr. DENT. Mr. Chairman, at this time I yield 10 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I rise in support of the committee bill, not to make any manner of speech with respect to its merits, but to put to rest some bug bears that have been raised concerning that bill and, also, I think to disclose some real bears in the thicket of H.R. 9247, the Erlenborn amendment.

I would like to point out, in the first place, that the procedure provided for in this bill is largely patterned after the Labor-Management Relations Act; that is, after the Taft-Hartley Act.

I have practiced under that act through four Presidents and, of course, that means somewhat different boards. I must say that the process before a trial examiner in all of those circumstances is a remarkably good process. Indeed, this has been recognized by the President of the United States.

I have here a letter headed, the White House, Washington, May 9, 1970, which states in part as follows:

Our Federal judiciary provides a vital public service in trying the thousands of cases each year that affect the interests of both Government and private citizens.

The long and impressive record of the Federal Trial Examiners is well known throughout the legal profession, and it is not only as your President, but also as a lawyer I am particularly aware of your outstanding contributions to our society.

It is signed "Richard Nixon."

I had the same experience. I see no reason why trial examiners appointed under the authority of the Administrative Procedure Act, for life, will not be excellent triers of fact.

This bill, just as the Taft-Hartley bill does, ultimately rests the decision upon the law and upon whether or not there was substantial evidence on the record of the hearing as a whole to sustain the judgment of the trial examiner, whom I believe they call the "hearing officers" here.

Now, what is the measure of that review? The measure is not the narrow review that excludes a consideration by the court of the whole evidence. It is not the kind of tricky review the right to which may be forfeited because one line of findings of fact would support the decision. The decision on the whole record must be considered and, believe me, anyone who has tried cases before trial examiners, and has ultimately gotten a favorable judgment through them and through the Labor Board, and then finds himself thrown out on his ear by the fifth circuit court—and I have had that happen to me—knows that the review is not a narrow review, it is a review that goes to the question of whether or not the ultimate decision was reasonably grounded, had a reasonable, factual basis to support the ultimate decision.

In labor cases you have very much the same type of problem as is involved in this kind of proceeding. You have a proceeding in which there is a considerable admixture of fact and law, and, therefore, a wide discretion on the part of the court to strike down if the facts, under the law, do not support the decision.

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

Mr. ECKHARDT. I yield to the distinguished gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thoroughly agree with the gentleman and would the gentleman not further concede that the review made by the court of a hearing reviews both substantive and procedural questions alike?

Mr. ECKHARDT. There is no question but that that is true, and frequently those substantive and procedural questions involve an intermeshing of fact and law that becomes very difficult to remove from the jurisdiction of a court. And of course ultimately the Supreme Court may strike down the decision if it is not reached in accordance with the spirit of the act.

I think that this act, even more than the Labor Act, envelopes fact and law in the same package.

Mr. CONYERS. If the gentleman will yield further, then in that sense the cease-and-desist orders provide more opportunity for review on the part of the defendant than this cumbersome method presented in the Erlenborn amendment?

Mr. ECKHARDT. I think it is better than the Erlenborn amendment, because of course one thing that is not recognized by the author of that amendment, or at least has not been recognized in his presentation on the floor, is that the appellate court is also limited by the fact determination by the trial court.

We are dealing here with situations that involve the same kind of special expertise, with respect frequently to a problem involving a complex seniority system in a plant, that exists in the case of the NLRB cases. This kind of case is particularly appropriate for determination by persons who have developed a kind of expertise, and can devote a week or two to a trial. Now, if you load this type of case calling for special expertise and demanding much time for trial, if you load this field of new law on the courts, you are calling upon Federal judges to decide the myriad of questions that arise before them in whatever time

it takes, perhaps 2 or 3 weeks and you are calling upon them to learn a new area of law.

So I submit that exactly for the same reasons that the Labor Board is set up in the manner that it is, with the trial examiner system, this system must be so established; otherwise one or two things will occur: either you will not be able to get to trial before a Federal court in one of these discrimination cases or else you will so heavily load the Federal court's docket that other lawyers will not be able to get to try their pressing cases.

Now I would like to point out a few of the real bears in the thicket of the Erlenborn bill. You will note that the Erlenborn bill establishes preemption against the application of any other laws which might affect an unlawful employment practice.

I have the bill before me some place, but I think that has also been gone over by the author of it.

Of course, this means that if the present provision is the exclusive provision controlling all matters relating to questions of fair employment practices, then the Erlenborn bill repeals the Civil Rights Act of 1866 where it touches upon this field.

As you recall, the Civil Rights Act of 1866 is the legislative machinery which puts into effect the rights guaranteed under the 13th and 14th amendments.

The Erlenborn bill by preempting the field removes these provisions from effectiveness in a case covered within the scope of this act.

The Erlenborn bill also ousts the National Labor Relations Board jurisdiction over job bias.

You will recall that section 7 of the Labor Act makes it the duty of a union to represent all of its employees—all of the employees of a plant and not those that it may select as those to be represented. It provides, and the courts have held, that it is an unfair labor practice for a labor union not to properly represent black people within the union; and where seniority provisions discriminate against blacks, there is the basis, under section 7 of the act, for a complaint that the person was not properly represented.

The Erlenborn amendment, it seems to me, would clearly preclude this area of right which now exists for persons whose employment rights may be invaded.

The Erlenborn amendment abolishes class actions. It would wipe out class actions in the area of equal employment opportunity. In this area the courts have held that equal employment actions are customarily class actions whether they are so categorized or not.

But this amendment would prohibit bringing class action suits on behalf of a whole class of persons—blacks, women, and so forth, who may be all suffering the same discriminations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I refuse to yield further.

Mr. Chairman, about 7 years ago, amidst a great fanfare nationwide and with no little notice being given in the foreign press, Congress enacted title VII of the Civil Rights Act of 1964. At that time we were breaking new ground in serious legislation dealing not only with the physical or economic welfare of the people of this Nation, but also dealing in an area in which we had trod very slowly and carefully before.

People have asked me many times: "You were the son of an immigrant. Your people were at one time discriminated against. Why did not your group as a nationalistic group make the same requests that are being made today by other groups?"

I say the difference is this. My people escaped from a very poor peasant life, and they came here to try to make themselves a better way of life, not so much for themselves, but for their children and their children's children. They had never had any schooling. They had never had any education. They did not know they had rights. I can assure the Members that there was no television, nor any "ambulance-chasing" lawyers to advise my people they had rights, and could use them. They had no knowledge of these things. So maybe ignorantly, but observing what they had come here to do and following steadfastly on that path, they took the menial jobs, they built the railroads, they dug the mines, they extracted the coal, they worked the steel mills, and they built the homes and the schools in this country—ofttimes for other children than their own—but they did provide for their children an opportunity to get that which they were seeking, a better way of life.

So their generation did not play around as it were with the so-called rights that we are demanding today for our people. But this group that awakened us 7 years ago to the realization that something had to be done were educated in the American schools and were part of the American scene and were citizens of this country fluent in the language. They pointed out they were being put into an economic level because of something that we were not afflicted with insofar as acceptance into the broad society of our people.

So this Congress—and to its credit—tried to write legislation meeting all the objections of the various sections and sectors and desires of our country, and its economic levels; but we failed, and I will tell the Members why we failed. We failed because we gave with one hand and took away with the other. We created a commission and gave it no power to do anything. It has taken us a long time to realize what the gentleman from Illinois, to his everlasting credit, said so well, and to which I would hesitate to add one word or to even interpret for him.

He said that if we are sincere in wanting to do what all of us say we want to do, then we must give this Commission power. How do we give it power? We give it the power to issue cease and desist orders.

The history of FEPC, the history of civil rights in the various States of the Union, proves beyond a doubt this is the only way for a peaceful, trustful approach to this very, very controversial subject before us.

The State of Pennsylvania was one of the first States in the Union to pass a law establishing an FEPC. I was fortunately one of the sponsors of that act. Because of my position in the leadership at that time, I handled the legislation.

However, we were at that time no wiser than we were in the Congress 7 years ago. We did not give our FEPC cease and desist powers, and we started to get exactly what we have reaped under the present Federal law—a backlog of cases that will not be heard for 10 or 20 years.

Justice delayed is justice denied. In this case we cannot deny justice, because the justice of equal rights is fundamental. There is nothing material one can feel and see, but it is nevertheless, a concept of a principle of life to which this Nation is dedicated.

So, within 3 years, after piling up cases that would smother the courts of that State, we granted our FEPC the cease and desist power. Now it is a rare, rare occasion that a case need go to court.

The 34 States in the Union that have enforcible laws of this character and nature—each in turn—have had to put cease and desist power in their laws.

At present, the EEOC has a backlog of over 26,000 cases. I have heard complaints here about how long the delay on the NLRB cases. Imagine dumping in the Federal courts of the United States these 26,000 cases, and approximately 15,000 to 20,000 more that would be created the minute the ambulance-chasing lawyers find what they can do under this act.

I say to the Members, in all sincerity, if they want to see this particular law become the effective public act we intend it to be—and I say this to my good friends in the South, and to my good friends in the East, the West, and the North, and I say it to all of us regardless of our ethnic backgrounds, the color of our skins, our affiliations of any kind of our sexes—the one just thing we can do is to have the people believe that we are trying to help them, to have the people in the small communities believe we are trying to find a solution for them.

Imagine what would happen in a State like mine, with the appellate courts hanging one on the Atlantic Ocean and the other on the Ohio River, with nothing in between but small communities. Imagine having to go to those appellate courts, the only two jurisdictions we have, on a case involving an employee charged with a rather minor infraction of this particular law, of having to go down with his own lawyer to fight the mighty Office of the Attorney General of the United States. Why, half of the little businessmen in my town would do exactly what they have done many times before. They would give up.

We do not want them to give up. If they are not guilty of an infraction they should not be made to accept the guilt because they do not have the money, the time or the courage to go before the high and mighty Attorney General in each and every appeals case.

The history is—and this cannot be denied—that where you have cease and desist powers, between 95 and 98 percent of the cases are solved before they ever

get to a court because we give remedies as well as safeguards.

This is equal rights legislation; this is fair treatment legislation. How can we sit here and try to pass legislation that is not fair to everybody whatever their standing, or their station or their level in life is? I do not care whether it is a big employer of 100,000 employees or a corner drygoods store with eight or nine employees. That is not relevant. True justice has to be equal. That is what we are fighting for and what the blacks in this country are fighting for—equality of justice, equality of opportunity. They do not want special treatment, in spite of what anybody tells you, because special treatment of itself breeds a sort of discrimination that you cannot tolerate. It might serve your purpose for the moment, but if it is not sound for the future, for the long haul, it is not sound now and you should discard even the thought of preferential treatment. They do not want quotas because quotas are against the concept of the very Government we are trying to uphold. Shall we start with quotas and say: "All right. We will have 10 blacks and 15 Italians, 14 Irish, and 11 Slavs?" I do not know how you would ever divide that great body of Anglo-Saxons, because it covers a multitude of sins.

Believe me when I say that I think some of my friends did themselves an injustice; and there are some of them, I believe, who did me an injustice. I was not here in the formative stages. At this time I want to say that no man in my whole experience as a legislator—and this is my 40th year as a legislator—worked harder in the field, in the various States and cities, and spent more time in discussing the matter with groups or has given more of himself, in many cases I know spending his own money. I happen to hold the purse-strings and I know he has never come to me for fare or anything else in order to handle this legislation. I am referring, of course to the gentleman from California (Mr. HAWKINS). I have never known a man that I have ever worked with who had a deeper understanding of the difficulties which we face in this legislation, or a greater willingness to give consideration to the problems of others. It is that understanding, I think, that we all ought to strive for.

I know that a person in my particular district has a different problem than the person, let us say, in the ghettos of Philadelphia. I know that the person in Georgia who lives in a cotton-growing or a peanut-growing community or even in the city of Atlanta has different problems, because that, too, is the essence of our Government. We represent 435 districts here.

It is in the hope that the majority of those districts in sending their Members here will at some point have a majority of that membership of the Congress representing the 435 separate districts but in the whole representing the total of the United States who will vote for a certain piece of legislation. If we said that it had to be unanimous, there would never be any law. If we said that it had to be less than a majority, there would be chaos.

So it is when you give the consideration that the gentleman from California has given when I came back and discussed the problem with him. He understands that it cannot be exclusively the thought of one person or the needs of one district that is mandatory, and that it is not upon this basis that the act must pass. It has to be a conglomerate need consolidated under one piece of legislation.

I know it is not perfect. There are a lot of problems in here. But I do not believe we should vote for a piece of legislation that wipes out the Equal Pay Act of 1963 for women that was passed by the Congress with the clear understanding that the matter of sex should not be a determination of how much is paid for a particular job when it is performed by both sexes. The substitute proposal by the gentleman from Illinois wipes it out under the section of the act dealing with exclusive remedy.

The Erlenborn substitute would establish, as is said in the letter which he sent to us, a 2-year back pay liability. The Hawkins bill goes further. If there is a liability for over 2 years—and I think we all understand that economics and the need for common sense in economics. Today you go back to the date of the passage of the act and you could very easily create an injustice greater than the justice you were giving or trying to give. So we have a statute of limitations such as we have in all of our departmental procedures.

Mr. Chairman, many of my friends today were telling me that they had committed themselves against the committee bill. Now, they did not commit themselves so deeply to the Erlenborn amendment but I had a very strange sensation that what they were saying to me was, "I am committed against the committee bill." Then, by virtue of that statement that gives support to the Erlenborn substitute. However, I asked a couple of them, "Are you committed to the Erlenborn substitute?" They said, "If that is all I have to select from."

Well, now, it is hard and difficult in the last moment of debate on the floor when, as has been said very clearly by the gentleman from Louisiana and by the gentleman from Michigan, few of us take the time to listen to the debate. So, if your mind is already made up by having committed yourself to a proposition 3 months ago, to a piece of legislation proposed 3 months ago, I say it is no longer the same animal that was put in the coop as a pup. It has grown to full growth and it has grown different spots.

How can I, how can you, help this committee make these Members who committed themselves to a piece of legislation before they saw all of the amendments, before they saw the final typewritten copy of what we are trying to do, change their mind.

So, Mr. Chairman, what I intend to do at the proper moment is to put into the RECORD the amendments we are going to offer tomorrow at their proper places in the copy of the bill in order that the Erlenborn amendment or substitute which will be presented for the RECORD tonight as an official substitute will be followed by our amendments. Then, I am sure that the Members of Congress will have an opportunity to read and study the conditions which would be created by both pieces of legislation.

Mr. Chairman, I am disturbed because I know that unless we can gain the trust and the belief that our intention is honest on the part of those so adversely affected by the conditions that brought on the passage of the first Civil Rights Act, and unless they believe that their Congress is trying to do something for them to settle their cases and to grant them appropriate relief and set a precedent and a record of history that will enable us to resolve the oncoming cases as rapidly as possible, unless we do that, we should not pass any legislation—let it ride in its haphazard, bungling way in the same manner in which it has been going down the pike during the last 7 years, creating more misunderstanding and injustice. Give us a precedent that will be good for tomorrow, one upon which we can rely, give us a remedy or a nonremedy, but let us put into their hands something on which they can reaffirm their faith in the workings of democracy.

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

The Clerk will read.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Employment Opportunities Enforcement Act".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ERLENBORN: Strike out all after the enacting clause and insert:

That this Act may be cited as the "Equal Employment Opportunity Act of 1971".

SEC. 2. (a) Paragraph (6) of subsection (g) of section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(f)(6)) is amended to read as follows:

"(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to recommend institution of appellate proceedings in accordance with subsection (h) of this section, when in the opinion of the Commission such proceedings would be in the public interest, and to advise, consult, and assist the Attorney General in such matters.

(b) Subsection (h) of such section 705 is amended to read as follows:

"(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court or in the courts of appeals of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by the Commission."

SEC. 3. (a) Subsection (a) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) is amended to read as follows:

"(a) Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this

title has occurred (and such charge sets forth the facts upon which it is based and the person or persons aggrieved) that an employer, employment agency or labor organization has engaged in an unlawful employment practice, the Commission, within five days thereafter, shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the 'respondent') with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

(b) Subsection (d) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) is amended to read as follows:

"(d) A charge under subsection (a) shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b), such charge shall be filed by the person aggrieved within two hunderd and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency. Except as provided in subsections (a) through (d) of this section and in section 707 of this Act, a charge filed hereunder shall be the exclusive remedy of any person claiming to be aggrieved by an unlawful employment practice of an employer, employment agency, or labor organization."

(c) Subsection (e) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) is amended to read as follows:

"(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c), the Commission has been unable to obtain voluntary compliance with this Act, the Commission may bring a civil action against the respondent named in the charge: *Provided*, That if the Commission fails to obtain voluntary compliance and fails or refuses to institute a civil action against the respondent named in the charge within one hundred and eighty days from the date of the filing of the charge, a civil action may be brought after such failure or refusal within ninety days against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) or further efforts of the Commission to obtain voluntary compliance."

(d) Subsections (f) through (k) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 200e–5) are redesignated as subsections (g) through (l), respectively, and the following new section is added after section 706(e) thereof:

"(f) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge and the court having jurisdiction over such action shall have the authority to grant such temporary or preliminary relief as it deems just and proper: *Provided*, That no temporary restraining order or other preliminary or temporary relief shall be issued absent a showing that substantial and irreparable injury to the aggrieved party will be unavoidable. It shall be the duty of a court having jurisdiction over proceeding under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited."

(e) Subsection (h) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) as redesignated by this section is amended to read as follows:

"(h) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual, pursuant to section 706(a) and within the time required by section 706(d), neither filed a charge nor was named in a charge or amendment thereto, or was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a). No order made hereunder shall include back pay or other liability which has accrued more than two years before the filing of a complaint with said court under this title."

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from Illinois (Mr. ERLENBORN) is recognized for 5 minutes in support of his amendment.

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

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

Mr. DENT. Would the gentleman object to a unanimous-consent request to allow the original bill to be considered as read and printed in the RECORD?

Mr. ERLENBORN. I would object to that, because I think the substitute should be considered first.

The CHAIRMAN. The gentleman from Illinois has objected to the request of the gentleman from Pennsylvania.

The gentleman from Illinois (Mr. ERLENBORN) has offered his amendment in the nature of a substitute which is to be considered as read, and printed in the RECORD in full.

The gentleman from Illinois (Mr. ERLENBORN) is recognized for 5 minutes in support of his amendment.

Mr. ERLENBORN. Mr. Chairman, at this point I think the merits of the amendment that I have just offered as opposed to the merits of the committee bill have been thoroughly debated. I might put this in context by saying that it is probably obvious by now that, while there are other peripheral issues that have been debated today, the outstanding difference between the alternatives before us is what type of enforcement authority should be granted the EEOC. There are those who say that the cease-and-desist approach is much preferable; that the courts cannot do this job of guaranteeing equal opportunity for employment. None of them have addressed themselves to the question that I would ask now, and I hope maybe would be answered before a vote is taken between these two bills and that is: if the courts are so inefficient and unable to grant relief in this area, why is it that over the past many years great strides have been made in the civil rights field primarily through our Federal courts? Why is it that we leave to the Federal courts the right to enforce equal voting rights, the civil rights law, the questions of integration and desegregation, if the courts are so inept?

I think maybe there is a hangup on the part of those who favor the cease-and-desist approach, and I call your attention to part of the editorial that appeared in the Wall Street Journal this morning. I will quote just one or two parts from that. It says:

> Most civil rights advocates write off this Republican-backed alternative.

They are talking about my substitute bill in which I am joined by the gentleman from Kentucky (Mr. MAZZOLI) so it is not a Republican approach, it is a bipartisan approach. But, despite that, they say:

> Most civil rights advocates write off this Republican-backed alternative as a predictable move to water down an obviously stronger Democratic approach.

And yet I point out that the committee bill is also sponsored by one Republican and one Democrat, it, too, is a bipartisan approach.

I shall continue to read from the editorial. It says:

> Yet it is significant that a growing number of scholars strongly committed to civil rights disagree. They doubt that giving the agency cease and desist authority would be either effective or desirable. They think a sort of knee-jerk reaction by liberals is blinding

them to the potential inherent in the GOP counter-proposal.

In his 1971 book, "Black Employment and the law," (Rutgers University Press), Mr. Blumrosen then argues that minorities have been far more successful acnieving their rights through courts than administrative procedures. He also asserts that states have invariably failed in their ow.. efforts to eradicate job bias through administrative cease and desist powers.

This is what is contended as the best and obvious best way to move.

The article continues:

"I doubt whether cease and desist orders could get at the vestiges of bias better than the courts," declares Bernard Anderson, assistant professor of industry at the University of Pennsylvania. "It would take years to build up the guidelines on which to base such orders, but if you had a good case you could be in court next week."

I think that is important.

Let me explain the other parts of my amendment as I have briefly during general debate.

As to the timely "Service of charges." That is something that should have been in the law originally and, certainly, we should add it now—those who have charges filed against them should be given timely notice.

So a person bringing an action under this cannot shop around for another forum on which to base another lawsuit, we would make the Equal Employment Opportunity Act the sole Federal remedy for relief from discriminatory employment practices.

The next item is "Temporary and preliminary relief."

By giving the Commission power to go into court, relief is available at the outset.

The next item is "Class action." To limit class action cases to those who are named or who join.

Limitations on liability: Testimony before the House General Labor Subcommittee by EEOC Chairman Brown established that the position of EEOC is that remedies—including backpay—for discriminatory acts may reach back to the effective date of the act, July 2, 1965. It is not clear that the courts have so held. However, to preclude the threat of enormous backpay liability which could be utilized to coerce employers and labor organizations into surrendering their fundamental rights to a fair hearing and due process, my bill offers a new subsection (h) of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5) which limits liability in pattern and practice suits to a period of 2 years prior to the filing of a complaint with said court.

With respect to individual complainants therefore, back pay and other liability is limited to the statutory period for filing, formerly 90 days and extended under this bill to 180 days. The final sentence in subsection (h) which limits back pay orders to 2 years is directed to the pattern and practice suits authorized under section 707.

It is only fair to say that liability should not go back ad infinitum but that there should be some reasonable statute of limitations.

Mr. DENT. Mr. Chairman, I ask unanimous consent to extend my remarks and to include at this time amendments in their proper form to follow the substitute offered by the gentleman from Illinois for the information of the House in the printed RECORD tomorrow.

Mr. STEIGER of Wisconsin. Mr. Chairman, reserving the right to object, it is my understanding that the gentleman from Pennsylvania is asking that copies of certain amendments be printed in the RECORD at this point?

Mr. DENT. Yes.

The CHAIRMAN. The gentleman from Pennsylvania has requested at this point in the RECORD he may revise and extend his remarks and to have printed in the RECORD the amendments which he indicated he would propose to place in the bill at the appropriate place.

Mr. STEIGER of Wisconsin. Mr. Chairman, further reserving the right to object, would that request not be inappropriate in the Committee of the Whole and should it not come only in the House?

The CHAIRMAN. The Chair is of the opinion that the request is in order. These are the gentleman's own remarks and the gentleman's own statement.

Mr. STEIGER of Wisconsin. Mr. Chairman, further reserving the right to object, again is it the understanding that this is a request only that certain amendments be printed in the RECORD and not that the amendments are offered at this point; is that correct?

The CHAIRMAN. The gentleman has not offered the amendments. He has asked unanimous consent only that they be printed in the RECORD.

Mr. STEIGER of Wisconsin. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. DENT. Mr. Chairman, the matter to which I referred is as follows:

AMENDMENT

Strike out everything after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Equal Employment Opportunities Enforcement Act".

SEC. 2. Section 701 of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(a) Effective one year after the date of enactment of this Act, strike "twenty-five" wherever it appears therein and insert in lieu thereof "eight".

(b) In subsection (a) insert "governments, governmental agencies, political subdivisions," after "individuals,".

(c) In subsection (b) strike out "a State or political subdivision thereof" and insert in lieu thereof "the District of Columbia".

(d) In subsection (c) strike out "or an agency of a State or political subdivision of a State,".

(e) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

SEC. 3. Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) is amended by striking out "or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution".

SEC. 4. Section 706 of the Civil Rights Act of 1964 (89 Stat. 259; 42 U.S.C. 2000e–5) is amended to read as follows:

"PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

"SEC. 706. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs has engaged in an unlawful employment practice, the Commission shall serve a copy of the charge on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') and shall make an investigation thereof. Charges shall be in writing and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is no reason to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, as far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of a charge filed by or on behalf of a person claiming to be aggrieved alleging an unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall take no action with respect to the investigation of such charge before the expiration of sixty days after proceedings have been commenced under the State or local law: *Provided*, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by certified mail to the appropriate State or local authority.

"(d) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the

practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days: *Provided,* That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law, unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

"(e) A charge shall be filed within one hundred eighty days after the alleged unlawful employment practice occurred, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency. The Commission shall within ten days of the filing of the charge serve a copy of such charge upon the person against whom the charge is made.

"(f) If the Commission determines after attempting to secure voluntary compliance under subsection (b) that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission and to the person aggrieved, which determination shall not be reviewable in any court, the Commission shall issue and cause to be served upon the respondent a complaint stating the facts upon which the allegation of the unlawful employment practice is based, together with a notice of hearing before the Commission, or a member or agent thereof, at a place therein fixed not less than five days after the serving of such complaint. Related proceedings may be consolidated for hearing. Any member of the Commission who filed a charge in any case shall not participate in a hearing on any complaint arising out of such charge, except as a witness.

"(g) A respondent shall have the right to file an answer to the complaint against him and with the leave of the Commission, which shall be granted whenever it is reasonable and fair to do so, may amend his answer at any time. Respondents and the person aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. The Commission may grant such other persons a right to intervene or to file briefs or make oral arguments as amicus curiae of for other purposes, as it considers appropriate. All testimony shall be taken under oath and shall be reduced to writing.

"(h) If the Commission finds that the respondent has engaged in an unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful employment practice an order requiring the respondent to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), as will effectuate the policies of this title: *Provided,* That interim earnings or amounts earnable with reasonable diligence by the aggrieved person or persons shall operate to reduce the backpay otherwise allowable: *Provided further,* That no order made hereunder shall include backpay or reinstatement liability which has accrued more than two years before the filing of a charge with the Commission. Such order may further require such respondent to make reports from time to time showing the extent to which he has complied with the order. If the Commission finds that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

"(i) After a charge has been filed and until the record has been filed in court as hereinafter provided, the proceeding may at any time be ended by agreement between the Commission and the parties for the elimination of the alleged unlawful unemployment practice, approved by the Commission, and the Commission may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it. An agreement approved by the Commission shall be enforceable under subsection (k) and the provisions of that subsection shall be applicable to the extent appropriate to a proceeding to enforce an agreement.

"(j) Findings of fact and orders made or issued under subsection (h) or (i) of this section shall be determined on the record.

"(k) The Commission may petition any United States court of appeals within any circuit wherein the unlawful employment practice in question occurred or wherein the respondent resides or transacts business for the enforcement of its order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall cause notice thereof to be served upon the parties to the proceeding before the Commission, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief, restraining order, or other order as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission. No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its member, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(l) Any party aggrieved by a final order of the Commission granting or denying, in whole or in part, the relief sought may obtain a review of such order in any United States court of appeals in the circuit in which the unlawful employment practice in question is alleged to have occurred or in which such party resides or transacts business, or in the Unitd States Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission (and to the other parties to the proceeding before the Commission) and thereupon the Commission shall file in the court the certified record in the proceeding as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (k), the findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and the court shall have the same jurisdiction to grant such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission. The commencement of proceedings under this subsection or subsection (k) shall not, unless ordered by the court, operate as a stay of the order of the Commission.

"(m) The provisions of the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (47 Stat. 70 et seq.; 29 U.S.C. 101–115), shall not apply with respect to (1) proceedings under subsection (k), (l), or (o) of this section, (2) proceedings under section 707 of this title, or (3) proceedings under section 715 of this title.

"(n) The Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by the General Counsel of the Commission.

"(o) Whenever a charge is filed with the Commission pursuant to subsection (b) and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to preserve the power of the Commission to grant effective relief in the proceeding the Commission may bring an action for appropriate temporary or preliminary relief pending its final disposition of such charge, in the United States district court for any judicial district in the State in which the unlawful employment practice concerned is alleged to have been committed, or the judicial district in which the aggrieved person would have been employed but for the alleged unlawful employment practice, but, if the respondent is not found within any such judicial district, such an action may be brought in the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a judicial district in which such an action might have been brought. Upon the bringing of any such action, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. Rule 65 of the Federal Rules of Civil Procedure, except paragraph (a)(2) thereof, shall govern proceedings under this subsection."

SEC. 5. Section 707 of the Civil Rights Act of 1964 (78 Stat. 261; 42 U.S.C. 2000e–6) is

amended by adding the following new subsections:

"(c) Any record or paper required by section 709(c) of this title to be preserved or maintained shall be made available for inspection, reproduction, and copying by the Commission, the Attorney General, or his representative, upon demand in writing directed to the person having custody, possession, or control of such record or paper. Unless otherwise ordered by a court of the United States, neither the Commission, the Attorney General, nor his representative shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress or any committee thereof, or to a governmental agency, or in the presentation of any case or proceeding before any court or grand jury. The United States district court for the district in which a demand is made or in which a record or paper so demanded is located, shall have jurisdiction to compel by appropriate process the production of such record or paper.

"(d) Effective on the date of enactment of the Equal Employment Opportunities Enforcement Act, the functions of the Attorney General and the Acting Attorney General, as the case may be, under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Commission hereby as may be necessary to enable the Commission to carry out its functions pursuant to this subsection, and the Commission shall thereafter carry out such functions in the manner set forth in subsections (e) and (f) of this section.

"(e) In all suits commenced pursuant to this section prior to the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America or the Attorney General or Acting Attorney General, as appropriate.

"(f) Subsequent to the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission: *Provided*, That all such actions shall be in accordance with the procedures set forth in section 706, including the provisions for enforcement and appellate review contained in subsections (k), (l), (m), and (n) thereof."

SEC. 6. Section 709 (b), (c), and (d) of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e–8(b)–(b)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulation or orders thereunder. The Commission shall, by regulations, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applicants were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish, upon request and without cost to any State or local agency charged with the administration of a fair employment practice law, information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply: *Provided*, That no subpena shall be issued on the application of any party to proceedings before the Commission until after the Commission has issued and caused to be served upon the respondent a complaint and notice of hearing under subsection (f) of section 706."

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees".

(b) Section 703(c)(2) of such Act (78 Stat. 255; 42 U.S.C. 2000e–2(c)(2)) is amended by inserting the words "or applicants for membership" after the word "membership".

(c) Section 703(h) of such Act (78 Stat. 257; 42 U.S.C. 2000e–2(h)) is amended by striking out "to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, or national origin" and inserting in lieu thereof the following: "to give and to act upon the results of any professionally developed ability test which is directly related to the determination of bona fide occupational qualifications reasonably necessary to perform the normal duties of the particular position concerned: *Provided*, That such test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, or national origin."

(d)(1) Section 704(a) of such Act (78 Stat. 256; 42 U.S.C. 2000e–3(a)) is amended by inserting "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency" in section 704(a).

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(e)(1) The second sentence of section 705(a) (78 Stat. 258; 42 U.S.C. 2000e–4(a)) is amended by inserting before the period at the end thereof a comma and the following: "and all members of the Commission shall continue to serve until their successors are appointed and qualified: *Provided*, That no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted".

(2) The fourth sentence of section 705(a) of such Act is amended to read as follows: "The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance

with sections 3105, 3344, 5362, and 7521 of title 5, United States Code."

(f) Section 705(g)(1) of such Act (78 Stat. 258; 42 U.S.C. 2000e–4(g)(1)) is amended by inserting before the semicolon at the end thereof the following: "and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))".

(g) Section 705(g)(6) of such Act (78 Stat. 259; 42 U.S.C. 2000e–4(g)(6)) is amended by striking out "section 706" and inserting in lieu thereof "section 715".

(h) Section 713 of such Act (78 Stat. 265; 42 U.S.C. 2000e–12) is amended by adding at the end thereof the following new subsections:

"(c) Except for the powers granted to the Commission under subsection (h) of section 706, the power to modify or set aside its findings, or make new findings, under subsections (i) and (k) of section 706, the rule-making power as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of specific applicability, and the power to enter into or rescind agreements with State and local agencies, as provided in subsection (b) of section 709, under which the Commission agrees to refrain from processing a charge in any cases or class of cases or under which the Commission agrees to relieve any person or class of persons in such State or locality from requirements imposed by section 709, the Commission may delegate any of its functions, duties, and powers to such person or persons as the Commission may designate by regulation, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering. certifying, reporting, or otherwise acting as to any work, business, or matter: *Provided*, That nothing in this subsection authorizes the Commission to provide for persons other than those referred to in clauses (2) and (3) of subsection (b) of section 556 of title 5 of the United States Code to conduct any hearing to which that section applies.

"(d) The Commission is authorized to delegate to any group of three or more members of the Commission any or all of the powers which it may itself exercise."

(i) Section 714 of such Act (78 Stat. 265; 42 U.S.C. 2000e–13) is amended by striking out "section 111" and inserting in lieu thereof "sections 111 and 1114".

(j) Section 715 of such Act (78 Stat. 265; 42 U.S.C. 2000e–14) is amended to read as follows:

"CIVIL ACTIONS BY PERSONS AGGRIEVED

"SEC. 715. (a) (If (1) the Commission determines that there is no reasonable cause to believe the charge is true and dismisses the charge in accordance with section 706(b), (2) finds no probable jurisdiction and dismisses the charge, or (3) within one hundred and eighty days after a charge is filed with the Commission, or within one hundred and eighty days after expiration of any period of reference under section 706(c) or (d), the Commission has not either (i) issued a complaint in accordance with section 706(f), (ii) determined that there is not reasonable cause to believe the charge is true and dismissed the charge in accordance with section 796(b) or found no probable jurisdiction and dismissed the charge, or (iii) entered into a conciliation agreement acceptable to the Commission and to the person aggrieved in accordance with section 706(f) or an agreement with the parties in accordance with section 706(i), the Commission shall so notify the person aggrieved and within sixty days after the giving of such notice a civil action may be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission to intervene in such civil action if it certifies that the case is of general public importance. Upon the commencement of such civil action, the Commission shall be divested of jurisdiction over the proceeding and shall take no further action with respect thereto: *Provided*, That, upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending termination of State or local proceedings described in subsection (c) or (d) or the efforts of the Commission to obtain voluntary compliance.

"(b) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this section. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, or in the judicial district in which the plaintiff would have been employed but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought. Upon the bringing of any such action, the district court shall have jurisdiction to grant such temporary or preliminary relief as it deems just and proper.

"(c) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). No order made hereunder shall include backpay or reinstatement liability which has accrued more than two years before the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any backpay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a).

"(d) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (a), the Commission may commence proceedings to compel compliance with such order.

"(e) Any civil action brought under subsection (a) and any proceedings brought under subsection (d) shall be subject to appeal as provided in sections 1291 and 1292 of title 28, United States Code.

"(f) In any action or proceeding under this section, the court, in its discretion, may allow the prevailing plaintiff a reasonable attorney's fee as part of the costs."

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(55) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (4)."

(c) Clause (111) of section 5316 of such title is repealed.

SEC. 10. Sections 706 and 710 of the Civil Rights Act of 1964, as amended by this Act, shall not be applicable to charges filed with the Commission prior to the effective date of this Act.

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new sections:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment in the competitive service (as defined in section 2102 of title 5 of the United States Code) or employees or applicants for employment in positions with the District of Columbia government covered by the Civil Service Retirement Act shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) The Equal Employment Opportunity Commission shall have authority to enforce the provision of subsection (a) and shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities hereunder, and the head of each executive department and agency and the appropriate officers of the District of Columbia shall comply with such rules, regulations, orders, and instructions: *Provided*, That such rules and regulations shall provide that an employee or applicant for employment shall be notified of any final action taken on any complaint filed by him hereunder.

"(c) Within thirty days of receipt of notice given under subsection (b), the employee or applicant for employment, if aggrieved by the final disposition of his complaint, may file a civil action as provided in section 715, in which civil action the head of the executive department or agency, or the District of Columbia, as appropriate, shall be the respondent.

"(d) The provisions of section 715 shall govern civil actions brought hereunder.

"(e) All functions of the Civil Service Commission which the Director of the Bureau of the Budget determines relate to nondiscrimination in government employment are transferred to the Equal Employment Opportunity Commission.

"(f) All authority, functions, and responsibilities vested in the Secretary of Labor pursuant to Executive Order 11246 relating to nondiscrimination in employment by Government contractors and subcontractors and nondiscrimination in federally assisted construction contracts are transferred to the Equal Employment Opportunity Commission together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Commission hereby as may be necessary to enable the Commission to carry out its functions pursuant to this subsection, and the Commission shall hereafter carry out all such authority, functions, and responsibilities pursuant to such order. The Commission shall be prohibited from imposing or requiring a quota or preferential treatment with respect to numbers of employees, or percentage of employees of any race, color, religion, sex, or national origin. The provisions of section 706(b) with respect to nondisclosure of information shall be applicable in the carrying out of this subsection.

"EFFECT UPON OTHER LAW

"SEC. 718. Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution, statutes, and Executive orders."

SEC. 12. New section 717, added by section 11 of this Act, shall become effective six months after the date of enactment of this Act.

Mr. DENT. Mr. 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, Mr. ADAMS, 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. 1746) to further promote equal employment opportunities for American workers, had come to no resolution thereon.

AMERICA NEEDS A NEW BALANCED AIR CARRIER SYSTEM

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

Mr. LEGGETT. Mr. Speaker, a new system of air fare rates is desperately needed by our country's air carriers, especially the supplemental carriers who provide transportation to thousands of the Nation's travelers.

This past year has been disastrous to the supplemental carriers both because of the decline in military traffic and the inability of the supplementals to compete with the scheduled carriers due to restrictive charter regulations and the introduction of loss-leader fares by the large commercial airlines.

For many years the scheduled carriers have voiced the inaccurate complaint that the supplementals have made unfair incursions into the scheduled carriers' markets. Nothing could be further from the truth. After lengthy hearings in the Senate, Senator HOWARD CANNON stated that "the evidence placed before the Committee indicates that, rather than retard the growth of scheduled traffic, charter operations appear to have stimulated the growth of scheduled traffic."

This past year saw a tremendous growth in overall transatlantic traffic. If there were any foundation to the charges of the scheduled carriers, the supplementals should have incurred enormous profits from this transatlantic growth. The fact is that the supplementals carried fewer passengers across the Atlantic in 1970 then they did in 1969. Yet, the scheduled carriers show extensive operating losses this year despite the increase in traffic. This is due to the imposition of less than cost covering fares by many of the world's scheduled carriers.

What we need is a balanced system of air transportation that benefits the entire public—a system in which the charter traffic is an integral part of the air transport system.

This year I cosponsored legislation with Congressman JOHN MOSS which would create a balanced system of rates that would meet the needs of the business traveler and the vacation traveler, the person who wants the convenience and flexibility of individual, as well as the person who wants the economic advantages of group travel.

A balanced air transportation system is vitally necessary to insure the survival of the scheduled carriers who, despite the increase in air travel, cannot make a reasonable profit due to the archaic regulations which now prevail.

Basic to the establishment of such a system would be a greatly simplified and rational fare structure. Cost and service would be the guiding criteria in setting fares. The basic fare would be the individual economy fare set at a level which enables the carriers to recover their cost and to earn a reasonable profit. Above the basic fare would be a first-class rate. Below the basic fare would be promotional fares to assist in opening new routes. At the bottom of the fare scale would be the charter rates, which because of the economies inherent in operating full planes on a limited basis can offer low fares while still recovering a reasonable profit.

A restructuring of our air transportation system must proceed apace if the U.S. airline industry, both supplemental and scheduled, is to survive.

TURMOIL OVER FORCED SCHOOL BUSING

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

Mr. BROYHILL of Virginia. Mr. Speaker, furor and dissension have been caused in innumerable communities in the United States by Federal requirements for the busing of public school pupils and disruption of the neighborhood school system. The irreparable harm already done to race relations by forced busing of schoolchildren is indeed a national tragedy. House Joint Resolution 651, of which I am a cosponsor, is aimed at putting an end to busing which is forced upon pupils and parents, both black and white, against their will. Such forced busing causes tragic losses of many kinds, but particularly educational losses of serious nature.

I ask unanimous consent to have inserted in the CONGRESSIONAL RECORD, immediately following these remarks, the text of a handbill circulated in one school district in Arlington County, Va., in August 1971. This handbill illustrates the turmoil that has been caused in thousands of communities throughout the country by conflicting court decisions and Federal departmental orders. Let us move rapidly to put into effect the remedy—enactment of House Joint Resolution 651.

Concerned Parents, and the Committee to Serve the Wakefield School Community, Arlington, Virginia. Arlington Parents: Stop Unnecessary Busing of School Children! Back Neighborhood Schools! Back Your Arlington School Board! Flier. 1 p. (Full text)

There is a great furor in Arlington over the desegregation of Drew Elementary School. There is no question of whether to desegregate . . . the question is how. The School Board's plan is just and straightforward. About 700 Negro students will be distributed in other County primary schools by busing. This plan is opposed by some black parents on the grounds that only Negro students will be bused. They have proposed a plan whereby about 80 percent of the black students are bused out of the Drew area, and over 1,000 white students from other schools are bused, many into the Drew area.

It is understandable that the black parents of Drew School would resent the fact that the only neighborhood school disrupted by desegregation is theirs. However, there is no way to avoid disruption of Drew as a neighborhood school if it is to be desegregated . . . even the black parents' plan buses four out of five black students. The only thing that can be gained by taking the Drew PTA Plan over the School Board Plan is the satisfaction of infuriating parents of about 1,000 white children who are otherwise willing to go along with efforts to desegregate Drew school.

Of course there are a few North Arlington "liberals" who have always supported desegregation of Drew . . . provided all the Negro children are kept in South Arlington. These same cynics have the nerve to call the School Board plan, which integrates all of Arlington, "racist"!

All of Arlington should back the School Board Plan. If the alternate plan is adopted, South Arlington's neighborhood school system will be destroyed, and along with it the attraction for young families to live here. The quality of the North Arlington school system would not long survive a down hill slide in South Arlington!

THE ATTICA PRISON UPRISING A NATIONAL TRAGEDY AND DISGRACE

The SPEAKER. Under previous order of the House, the gentleman from Illinois, Mr. MIKVA, is recognized for 1 hour.

Mr. MIKVA. Mr. Speaker, what happened at Attica Prison Monday is a national tragedy and a national disgrace.

The tragedy is that at least 40 lives were lost. The New York State police and the National Guard crushed the rebellion, responding to force with more force. The storming of cellblock D may have saved the lives of many hostages, but the cost was very high. There is evidence now that most of the hostages that died were killed accidentally or mistakenly by the very men sent to rescue them. That makes Attica all the more tragic, and it throws open to question the decision to attack the cellblock. The rebellious prisoners created the deadly confrontation, but the impatience of the prison administration made it worse.

Attica Prison is more than a tragedy though. It is a national disgrace because what happened there could have happened—and may still happen—at prisons in other States. This country would be making a serious mistake if it investigates only the rebellion at Attica Prison, if it thinks Attica is an isolated occurrence, and if it does not do something about the causes behind the bloodshed. If we learn anything at all from Attica, we must learn that it can never be allowed to happen again.

We pride ourselves on having a political system designed to anticipate the need for reform, but more and more frequently we recognize that need only after it expresses itself in violence and death. We pride ourselves on being a forward-

looking people in a forward-looking country, but prisons in America are medieval. To call them correctional institutions is a cruel joke. With few exceptions, prisons in this country do not correct, they corrupt.

The tragedy at Attica began with a demand for humane prison conditions. The prisoners submitted a list of proposals, and the state correction commissioner agreed to 28 of them. As the commissioner himself pointed out, these proposals were not unreasonable: they called for better food, improved health and recreational facilities, true religious freedom, and a better rehabilitation program.

Unfortunately, Mr. Speaker, there had to be a riot before the prison administration would agree to these demands. That is the disgrace of Attica—disgrace that must be shared by almost every prison system in the country. In most places, prison life is subhuman life. More is at stake though than the lives of prisoners and correction officers who live and work in prisons. To a great extent the welfare of the country rides on our interest in prison reform. How many more riots must there be, how many more lives must be sacrificed to generate that interest?

This country spends a vast amount of money catching and trying criminals. It spends comparatively nothing to rehabilitate them, and that is more than curious. The entire process is becoming an exercise in futility. More than half of the people who are sent to jail and serve their sentences end up there some time later convicted of another crime. The police are catching the same criminals over and over again. This is not only a waste of money—it is a waste of lives.

This country's jails and prisons are so overcrowded, underfinanced, and understaffed that they cannot begin to rehabilitate the people sent there. They cannot even begin to treat them like human beings, and the correctional officers are not treated much better than the prisoners. Riots and rebellions in prisons should not really be surprising. It is sheer folly to let the prison system continue to be nothing more than graduate schools for crime, where prisoners learn new tricks of the trade, rather than a skill that might keep them out of jail for the rest of their lives.

It will take more than the uprising at Attica, more than just a change of attitude to change the facts of prisons in America. It will take money—just as it has taken money to improve the police departments—just as it is taking money to improve the courts. That is not happening yet; prisons are continually shortchanged. Earlier this year, the House cut funds from the Justice Department's prison budget, and that kind of thing is happening at the State level as well.

I hope that Congress will not wait for Attica II and Attica III—wherever and whenever they occur—to face its responsibility to examine the entire system of penal institutions. To focus attention on prison conditions and the need for reform legislation, my colleague from New York, Mr. KOCH, and my colleague from California, Mr. BELL, and I are planning to form a task force on prison reform. It is our urgent hope that other Members will join us in a bipartisan effort to make sure that what happened at Attica never happens again, to make sure that prisoners are never treated as less than human beings.

We simply cannot afford to wait any longer to do this. There are not jails enough nor jailers enough to contain the misery and desperation of our prisons. The inside of each prison is a battleground which pits men against themselves and other men, and ultimately against the society which put them there.

One such battle was fought this week at Attica, and we all lost.

We will continue to lose those battles until we are prepared to put some resources, some innovations, some concern and some very desperately needed reform into the entire penal system from beginning to end.

I would hope as a beginning the Judiciary Committee, on which I serve, would renew the hearings commenced earlier this year, again not to find scapegoats but to find a handle to this awful problem which can destroy us all.

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

Mr. MIKVA. I yield to my distinguished colleague from Maryland.

Mr. MITCHELL. I thank my distinguished colleague for yielding and I thank him for his courage in bringing this matter before this body by obtaining this special order.

Since I have been in the Congress there have been two or three national events which have shattered me at least momentarily, events which I believe have hurt many Members of this Congress and have traumatized the lives of many Americans. Mylai was one such event. Attica is another.

I only hope that this body will heed, listen to, and act on the recommendations being made by my distinguished colleague. There is something deep and sick and wrong about these events, and it is our responsibility to cure the sickness and to right the wrongness.

I associate myself with the gentlemen's remarks. I for one am deeply grateful that he has had the courage to bring them to this floor.

Mr. MIKVA. I thank my colleague. I am aware of his abiding concern about the problems of prison reform, and that his concern did not start with Attica or even other cause célèbre of riots and other events about the country. I am aware that for a long period of time he has been concerned about the problem within his own State and the country as well, and I am pleased he has taken part in this special order.

Mrs. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the distinguished gentlewoman from New York.

Mrs. ABZUG. I want to compliment the gentleman in the well for having taken this special order. As a Congresswoman from New York State—and just as an American—I can say that all Americans, including myself, have been shocked and saddened by the events of the past few days at Attica and in upstate New York.

There are some present indications that investigations into what occurred there will be conducted by the State of New York. This will amount to the State investigating itself, despite the fact that there is the distinct possibility that the Governor and other officials of that State may themselves be highly culpable for both the conditions which led to the revolt by the prisoners and the handling of the rebellion itself.

There are conflicting reports as to what or who actually caused the deaths of the hostages, and the willingness to grant many of the prisoners' demands after the rebellion began is itself strong evidence that severe, if not brutal conditions at the penitentiary pushed the inmates to extreme action.

The perpetrators of the tragic deaths at Attica must be brought to justice. We must also take steps to assure that similar explosions do not spread to other penal institutions, not only in New York, but across the country as well. We must ascertain the facts and avoid the possibility of a whitewash which will only serve to incite other disturbances.

Because of the serious questions raised by having State panels investigate the actions of State officials, I have asked the distinguished chairman of the Judiciary Committee to consider holding hearings to investigate what happened at Attica. This request is made not only because I have doubts as to the ability of the State of New York to investigate in a manner which will be and will appear to be absolutely unbiased, but also because no investigation by a State government can possibly include within its purview the question of whether Federal legislation to protect the constitutional rights of prisoners and guards should be enacted.

Insofar as the possible need for Federal legislation is concerned, statutes such as sections 1983 and 1985(3) of title 42, United States Code, and their criminal analogues, sections 241 and 242 of title 18, United States Code have proven to be too vague to protect prisoners' rights. Section 3750b of title 42, United States Code, which sets forth requirements for correctional facilities receiving assistance from the Law Enforcement Assistance Administration, contains no provisions making this assistance contingent upon proper and constitutional conditions of incarceration. An investigation by the Judiciary Committee would, in my opinion, demonstrate quite clearly the need for legislation in this area.

I regret the failure of Governor Rockefeller and the members of his adminstration to act decisively in the area of penal reform prior to this incident. Surely last year's incidents at the Tombs, in New York City, were a warning that a convict is no more willing to live like an animal than is anyone else. Responsible groups such as the Fortune Society and Mr. William vanden Heuvel's Committee on Prisons have pointed this out on numerous occasions. Both the content of prisoners' demands and the fact that they were quickly granted in 28 out of 30 instances is evidence of how reasonable they were—two typical items were an increased number of black and Puerto Rican guards in an institution whose inmate population is

85 percent black and Puerto Rican and adequate narcotics rehabilitation treatment.

I have called upon Governor Rockefeller to create immediately an ombudsman-type committee—fully independent of existing correctional and prison authorities—with full power to visit prisons, communicate directly and without censorship with all prisoners, and make recommendations for necessary reforms. In addition, I have asked that the 28 demands of the Attica inmates to which Corrections Commissioner Oswald agreed be instituted at once at Attica and all other correctional facilities in the State of New York, for it is evident to me on the basis of the many letters I have been receiving from prisoners in various upstate facilities that the conditions which precipitated the rebellion at Attica are present throughout the State's correctional system.

Time and again, trouble has erupted at State prisons. Time and again, we have found when the dust has cleared that the conditions in these prisons had been subhuman. Attica is by far the most serious and tragic of these incidents, but it is by no means the first.

It is high time that we recognize that we can put off the question of criminal correction no longer. Unless we are prepared to return to the Elizabethan practice of hanging for all offenses from pickpocketing on up, we must make a commitment—not only a political commitment, but also a massive financial commitment—to creating a correctional system which emphasizes rehabilitation rather than revenge and punishment.

I hope that Congress, in acting on this problem, will provide Federal funds in areas where they can make a real difference. Examples of this are the training of minority correction officers and the creation of adequate drug rehabilitation facilities in prisons, both of which were among the Attica demands.

I join with the gentleman from Illinois (Mr. MIKVA) in hoping that the Committee on the Judiciary will hold hearings on the Attica tragedy, not only to examine the facts there, but also to consider how Federal law might be altered and improved so as to protect the rights of prisoners in State institutions all over this Nation.

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

Mr. MIKVA. I thank the gentlewoman from New York for her contribution, and I yield now to the gentleman from New York (Mr. KOCH).

Mr. KOCH. I thank the gentleman for yielding.

I have worked with the gentleman from Illinois on legislation which deals with penal reform. As always with legislation of that kind, it is the last to be looked at because prisoners are not really constituents in the sense that we view constituents, because they do not vote. Therefore, their needs so often come at the end of the line, if at all.

In January 1970 I visited the Federal House of Detention in Manhattan. This prison is not actually in my district, but it has confined within it many of the Federal prisoners awaiting trial in New York City. Since that time I have visited a total of six prisons, four of them in New York—the Tombs, Riker's Island, Kew Gardens—and two here in Washington, D.C.—the District of Columbia jail and Lorton Reformatory.

What is amazing to me is that the prison conditions which are so heinous and barbaric—and what I mean by this is the way we handle prisoners, with no rehabilitation programs and with three or more in a cell many times—are not new conditions. And they are conditions that have been brought to the public's attention long before the Attica uprising. There are reports upon reports that go back so many years that it would be impossible to list the number of reports that have been made by so many individuals, but they are rarely read and always filed away.

The second prison I visited was the Tombs—a New York City house of detention. Shortly after my visit I took a survey in the prison through a questionnaire that was given to every prisoner. There were 1,700 prisoners and 905 actually replied to the questionnaire. You would be amazed at the conditions which existed in the Tombs, and the Tombs is very bad but it is no different than many other city and State institutions in New York and other States.

Now let me tell you a little bit about the conditions that existed in the Tombs when this questionnaire was filled out. Some of the questions and answers were:

Have you ever been the victim of an assault by another prisoner?

The response to that was yes; 9 percent.

Have you ever personally seen a guard assault an inmate?

The answer was yes; 46 percent.

What is the number of persons sleeping in your cell?

First I want to tell you what a cell is. A cell is approximately 7 feet by 6 feet in the Tombs.

The response to that question of how many people occupied a cell was the following: 7 percent said that more than three occupied a single cell; 45 percent said that three occupied the cell.

Now, just imagine what that means. Let us take that figure of 45 percent who were three men in a cell 6 by 7 feet. I have seen those cells. The cells contain cots that come off the wall with two hanging off the wall and the third prisoner sleeping on the floor; in many cases the third inmate slept on the floor without benefit of a mattress. In many cases the prisoners were not given blankets or towels for more than a week after they got into the institution. They just had to sleep on the cement floor.

The tragedy of Attica is even more personal to me because I had met one of the inmates at Attica who is now dead. In my first visit to the Federal House of Detention in 1970 I met Sam Melville. At that time he was in the maximum security ward.

As I was touring the jail with the warden, I heard a voice say, "Congressman, may I speak with you?" I went over to him and he said, "Congressman, this cell is about 6 by 7 feet"—and there were three prisoners in it at that time. He said:

> We have as many as six in this cell and I am only allowed to shower once a week. I am not allowed to exercise. Why? Why?

So, I went over to the warden. I said, "Why?" He said:

> Melville is in here because he is charged with bombing.

I said, "But what has that got to do with his exercising and being able to take a shower once a day or being penned in a cell which is made for one person? Why must there be six people in it?" There, really, was no answer.

So, I wrote to the Department of Corrections at the Federal level and about a week later I got a response from Melville. It was a letter that said, and I quote him:

> DEAR CONGRESSMAN, there is a new adage at the prison: It takes a visit from the brass to get the warden off his ass. We now shower every day and we exercise every day.

Why was it necessary for the head of the Department of Corrections in Washington to have to order that on the local level? Why was it not a matter of routine?

Well, Melville was killed up at Attica. I am not here to hold a eulogy for Melville. He was a convicted criminal. He was convicted of bombing. I am not here to defend him. But no matter what he was guilty of, under our system you do not torture people, you do not engage in barbarism. You punish him for his crime. The punishment for his crime is that he serves a certain amount of time in jail, but not suffer the additional punishment that comes from treating a human being like a mad dog.

He was shot. He is dead, as are so many others.

Mr. Speaker, I am not going to get into the question of blame and why they were shot and the circumstances surrounding this tragic incident, because hopefully that will come out in the investigation. But, what is important to me is that the Commissioner, Commissioner Oswald, said that there were 28 demands which were made relating to the things we are talking about, such as personal cleanliness, and in some cases permission to practice their religion—28 reforms which were going to be put into effect and which he was acceding to because they were proper.

I do not know. Perhaps, they have been put into effect, but I doubt it.

What disturbs me is that no matter what happens with respect to that investigation and where the blame lies with respect to those deaths, why today are not those 28 reforms put into effect, not only at Attica but in every other penal institution.

What I would hope would come out of this tragedy is continued public interest in a situation which should have been cleared up years ago, and not recriminations alone and seeking a scapegoat. Undoubtedly one person is going to be charged with responsibility for the whole thing. But it is not that one individual, as chargeable as he may be, who deserves our condemnation, but it is all of us who

knew about the situation and have not done anything about it.

Mr. Speaker, people beat their breasts today but will forget about it tomorrow. Unfortunately, the public will not reflect upon this tragedy for more than 11 days because that is the normal time span of their attention before some new matter takes their attention. Yes, this tragedy is going to be talked about for a few days and then it will be over until there is another riot and more tragedy.

What I would hope would come out of this is support for legislation—and there is legislation, and very good legislation that our colleague, the gentleman from Illinois (Mr. MIKVA) has introduced which provides for minimum standards. Most States get Federal funds for their prisons so why should they not be compelled to have certain minimum standards? Even if they get a single dollar by way of Federal funds for their institutions his bill requires that the local officials comply with standards, and I am proud to be a cosponsor of the bill. I am inserting at this point the questions used in my Tombs survey and a summary of the answers:

KOCH QUESTIONNAIRE ON CONDITIONS IN THE TOMBS

Please answer the following questions briefly in the space provided and return in the enclosed envelope which is already stamped and addressed to me in Washington, D.C. Seal your envelope before mailing. It is vital that you answer this poll so that we can know about conditions under which you must live.

1. Have you ever been a victim of assault by another prisoner? If so, please describe the incident.

2. Have you personally (don't give me a third hand report) seen a guard assault an inmate; include only incidents not reported and investigated.

3. When was the last time a library facility was made available to you?

4. What is your schedule of recreational programs such as movies, walking outside etc.?

5. Is there a limit to the paper and pencil available to you?

6. What is the number of persons sleeping in your cell?

7. Were you given a blanket, towel and mattress immediately upon entry in the prison? ____ If not, how long was it before you received them?

8. How often are your sheets____, blankets _____ cleaned?

9. Have you been issued any clothing since coming to the Tombs?

10. Are you given enough soap?

11. How often can you take a shower?

12. If you have no money, are you given an allowance at the commissary for items such as cigarettes?

13. Are newspapers made available to you?

14. How long has it been since you have seen a movie?

15. Do you receive adequate medical care?

16. Do you have the services of a social worker? ____ If so, is this person readily available to you?

17. Are the services of a notary available to you?

18. If you are a drug addict, please describe the procedure for your detoxification?

19. Do you have salt and pepper in your food?

20. Was your free call made for you? ____ And was contact made for you through that call?

21. How often are you permitted to have visitors?

22. How long are your visitors permitted to stay?

23. What do you think of the Legal Aid Society?

NAME: ____ May I use your name? ____ Yes; ____ No

What crime have you been accused or convicted of?

Are you awaiting sentencing or have you been sentenced?

How long have you been at the Tombs?

Please use the other side of this questionnaire for any added comments you would like to make.

COMPUTATION OF TOMBS QUESTIONNAIRE

Have you ever been a victim of assault by another prisoner? Yes: 9%; No: 77%; NA: 14%.

Have you personally seen a guard assault an inmate? Yes: 46%; No: 36% NA: 18%.

What is the number of persons sleeping in your cell? 2: 21%; 3: 45% 2 & 3: 12%; 4: 3%; 3 & 4: 7%.

Were you given a blanket, towel and mattress immediately upon entry in the prison?

Immediately: 12%, blanket; 7%, towel; 8%, mattress.

Less than a week: 27%, blanket; 16%, towels; 22%, mattress.

More than a week: 17%, blanket; 22%, towel; 18%, mattress.

"Not Yet" category: 15%, blanket; 18%, towel; 6%, mattress.

How often are your sheets____blankets____ cleaned?

Weekly: 75%____sheets.

Never: 92%____blankets.

Are you given enough soap? No: 79%.

Do you receive adequate medical care? No: 91%.

Do you have the services of a social worker? No: 90%.

38% indicated that they were on drugs upon entry in the Tombs Cold Turkey for everyone.

I thank the gentleman for yielding to me.

Mr. MIKVA. I thank the gentleman from New York for his contribution.

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

Mr. MIKVA. I yield to my colleague, the gentleman from Michigan (Mr CONYERS).

Mr. CONYERS. Mr. Speaker, I think the gentleman from New York (Mr. KOCH) has made one of the most perceptive statements about the wrongs in our penal system that I have heard on the floor of this Congress, and perhaps, I might add, anywhere else.

I am troubled, as are all of the Members gathered here for these special orders, about a situation that is synthesized by that one location in New York where there is a strange, and in a very foreboding way the sign of the new unrest in our society. In fact, in Michigan there have been reports of the same potential for trouble.

I particularly underscore his perception in allowing that all of us must in some way share the responsibility for the tragedy that has occurred in New York State.

Mr. MIKVA. I thank the gentleman from Michigan (Mr. CONYERS) for his contribution. The gentleman serves with me on the Committee on the Judiciary. I know that his interest is abiding in this matter, and I know he will join with me in my cause in trying to see if we can get that committee to resume its hearings we started, and move forward on this very, very pressing problem.

Mrs. CHISHOLM. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the distinguished gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Speaker, I thank the gentleman very much for yielding me this time. I am going to be very brief.

I want to say at the outset, in a very realistic way, that I knew it was going to happen. Perhaps people might be rather surprised at my stating the case in this way, but it is because for over 15 years, at least, in the City and in the State of New York, I have witnessed the appointment of all kinds of investigatory commissions, and investigatory bodies, Governor's committees, and special community committees, to go into the prisons and the jails to observe the conditions under which these men, who are paying certain penalties already prescribed by the law, are undergoing, and these committees had indicated quite clearly that the lid would explode and that at some time in the very near future many lives would be taken.

I particularly feel very deeply about this because I have had the opportunity to be in two of these situations within the past year, one where we spent 3 days—if not almost a week—along with our distinguished colleague from the Bronx, Congressman HERMAN BADILLO, when we had an outburst in the Long Island prison.

I want to tell you that I do not think that many of us who are responsible for implementing our laws can readily recognize why we are doing these things to human beings whose individual liberties and just, basic, personal freedoms are denied so that because of this they eventually become dehumanized and depraved, and do that which they have to do in order to dramatically bring to the attention of the world what is happening.

When I went into that prison—and never will I forget it—for 3 days—and again I say never will I forget what I saw—I could not believe it.

It was a very interesting thing to know that even though many of these prisoners were there for very serious crimes—basically the overriding question and the overriding consideration and issue was, "We know we have to pay our penalty, but have you forgotten that we are human beings who are entitled to just a few basic things—" such as my friend, the gentleman from New York (Mr. KOCH) has mentioned—a bath, a daily shower, soap, toothbrushes; and to be able to have gone into those cells, just two-by-fours, and to see those prisoners in despair—and to walk through urine and feces only because these men are not important in the eyes of many persons in this country. That is because, as someone has so eloquently phrased it—they are not voters.

I say to you in conclusion, to the gentleman in the well from Illinois (Mr. MIKVA), and all of those who are interested in dealing in legislation and having more investigations—I do not want to sound pessimistic—it is necessary for us to get at the bottom of what happened in Attica prison. But I hope to God that as

a result this Congress must now take action, and that is to take the leadership in setting some basic guidelines and basic rules for the deprived and depraved men, in a real sense that we may be able to implement something realistic, something that will give them the hope that at least with the death of over 25 persons we have finally come to understand what has happened. Let us hope that those deaths will not have been in vain; let us hope that perhaps we can move on the case.

Mr. MIKVA. I thank the gentlewoman from New York (Mrs. CHISHOLM).

One of the provisions in the bill that the gentleman from New York (Mr. KOCH) has referred to, which he is a cosponsor of as are other people who are in the Chamber, and out of the Chamber, is to provide the equivalent of what we in the army called the Inspector General. Because unfortunately when these conflagrations break out in the prisons there is a great credibility gap between the prisoners and the correctional authorities, and almost without fault the prisoners demand some kind of a neutral force, whether it is the press or the brass, as my colleague, the gentleman from New York (Mr. KOCH) referred to it, someone that they can tell their story to. Because there is no confidence on their part whatsoever in the correctional authorities. Again it is not a question of whether that lack of confidence is justified or not, it is a fact that somewhere we must develop that kind of neutral authority which will have the confidence and have some credability so that there can be some accommodation other than at the point of a gun. But pending such legislation certain people are called upon to play that role, and our very distinguished colleague, the gentleman from New York, had the unenviable pleasure of playing that role in the situation in New York where he was one of the persons that the prisoners asked to see, to try to serve as a conciliator, to try to serve almost as an expressor of their views because they were concerned that they would not be brought forth to light, and they wanted the assistance of some outside force—and I am referring, of course, to our distinguished colleague, the gentleman from New York (Mr. BADILLO) and I am very pleased to yield to that gentleman at this point.

Mr. BADILLO. Mr. Speaker, I am grateful to my colleague, the gentleman from Illinois (Mr. MIKVA), for giving me the opportunity to appear before the House, and to answer any questions that the Members may have as to what went on in the prison at Attica.

I was called into this by Governor Rockefeller through his secretary, Mr. Douglas, on Friday, and from that time on until late Monday afternoon I spent practically every hour trying to insure that the tragedy that took place could be avoided.

I think it is important to get all the facts as to what happened. I think for that reason it is important that there not be a prejudgment, and I want to touch on a few of the situations that remain in my mind now to indicate why it is important that no prejudgment should be made.

I had the misfortune of having been in situations similar to those Congresswoman CHISHOLM indicated. We were together last year at a riot in a prison in Queens in New York City. I found that the situation in New York City was entirely different in that the prisoners there were far better organized because we were able to deal with a negotiating committee. In Attica we had to negotiate with 1,200 people at once. I mention that because it has been said it was an organized operation, and we were at no point able to get the prisoners to agree upon a negotiating committee that could meet with us.

Second, I was physically present in the yard where the prisoners had placed themselves after the escape from the cells with the hostages, and I received a copy of their demands. I want to point out to all of you that the prisoners were able to distinguish between one category of demand and another, because it has been said that some of the demands were absolutely inflexible. I just want to point out on the first page there was a list of five demands which included complete amnesty, which included speedy and safe transportation out of confinement to a nonimperialistic country, and other such demands.

But on the second page there was a list which was headed "Practical Proposals," so that the prisoners understood that not all the demands were in the same category, and as a lawyer and as someone who has had experience in these matters, working with Assemblyman Arthur Eve and other members of the committee, we began to concentrate on the practical proposals. I must tell you that we not only went over the first 15 demands that were listed by them and the other proposals, but they later added some more, and then a vote was taken, and we could see which of the proposals had the greatest support from among the prisoners. I must tell you that the proposal that had the strongest and most overwhelming support from all of the prisoners was No. 12, which said:

Give us a doctor that will examine and treat all inmates that request treatment.

There was no proposal that received more support than this one did.

We could tell—I made notes about the different proposals—we could tell there was a clear distinction between those which were most wanted by the prisoners and those which had been put in at the request of a few. It was in that manner that we were able to come to the 28 recommendations that have been published, and we found that after we agreed with the prisoners that these were the 28 recommendations, we found that Commissioner Oswald himself agreed that these recommendations should be implemented.

I want to point out that these recommendations include some matters which not only do not require any new laws, but are already in the Constitution of the United States; for example, "allow true religious freedom." This does not exist in the prisons in New York State. Whether you agree or disagree with the philosophy of the Black Muslims, the point is there are many prisoners who feel that that is their religion and they want the right to be able to practice that religion.

Another one has to do with the question, No. 8, of the censorship of newspapers, magazines, and other publications. Of course, they are here referring to the publications of the Young Lords, the Black Panthers, and the Black Muslims. But this also has the same protection in the Constitution. So some of these matters have to do with enforcing the Constitution of the United States, and that is the reason that Commissioner Oswald agreed with it.

Others have to do with matters that are already on the books, either through laws of Congress or laws of the State of New York, such as providing adequate food, water, and shelter for all inmates, and providing for an adequate diet.

The fact is, we were told by Commissioner Oswald that the diet which is provided has nothing to do with whether or not it is proper. It has to do with the fact that the budget of the State of New York allows only 72 cents per person per day for a diet. That is how the diet is computed, on the amount of money, and not on whether or not it is adequate for the prisoners.

So as we go through the demands, we can list them into categories of enforcing the Constitution, of enforcing the existing law, and the new matters which are important.

Among the new matters which are important I particularly want to call to the attention of the Congress at this time some which can best be carried out through support by the Congress. This has to do, for example, with item 17, which calls for the institution of a program for the recruitment and improvement of a significant number of black and Spanish-speaking officers. In the entire prison which had approximately 2,000 inmates, of which about 80 or 85 percent were black and Puerto Rican, there was not a single black correctional officer, and there was only one Puerto Rican officer, I was told, although I was not able to find him during the 4 days.

Clearly we should be able in Congress to provide the funds for that kind of training program, not only in Attica and the State of New York, but also throughout the country.

The prisoners also asked that there be an effective narcotics training program for all prisoners requesting such treatment, because prisoners who have made the request have been turned down. That is one of the reasons why they wanted a doctor at least to examine to see whether the request was a reasonable request.

The prisoners also felt that it was important that there be training programs and not just that there be more officers or a particular officer, but that there be training programs for the correctional officers so that they would have a better understanding of how to deal with the prisoners.

I do not want to go into all these matters now, but I just want to point out that it is important, it seems to me, in view of the fact that Commissioner Oswald, who is a well known expert on prisoners, had agreed upon these reforms. I think it is important that the

Governor of the State of New York immediately take action to see that these recommendations are put into effect—not only in Attica, but also in all of the prisons throughout New York State.

I want to point out that the prisoners were talking about other prisoners throughout New York State, because when it came to recommendations of this type, they spoke to us not just about their particular problems, but also about all the prisons throughout the country. It is in discharge of that request of theirs that I come before the Congress today. I will include all the recommendations in the CONGRESSIONAL RECORD, and I hope that the Members will all study the recommendations and commit themselves to providing whatever funds may be necessary to see to it that the recommendations are carried out.

Mr. REID of New York. Mr. Speaker, will the gentleman yield?

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

Mr. REID of New York. Mr. Speaker, first I commend the gentleman from New York (Mr. BADILLO) for the thoughtful tone of his statements, and for his statement that we should not make final judgments or prejudgments now, but that there should be very careful analysis of the need to take certain steps and to make recommendations. Obviously some are contained in the Constitution or in the laws of the State of New York, which quite obviously should be implemented promptly, not only at Attica, but also throughout the country and for the prisoners of New York State as well.

I commend the gentleman from Illinois for taking the time in this special order to bring up this special subject. We do need to get certain laws on the books providing for certain standards consonant with the support that is being provided by the Federal Government.

Finally, I think all of us are indebted to the gentleman from New York (Mr. BADILLO) for his service in an extremely difficult task. I am sure we all share the anguish the gentleman went through, and yet I am sure that if there were opportunities for viable communication, he was one of those who made it possible, and the least we can do is promptly to try to carry out that which he and others feel is the result and consequence of the tragedy and to see that it does not happen again.

I believe all of us owe him a vote of thanks for his efforts in this regard.

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

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

Mr. DOW. I, too, want to compliment the gentleman from New York (Mr. BADILLO) on the fact that he went to Attica and joined in the frontline confrontation there. I believe that his services, great as they are and have been, are going to be greater, because having lived through this experience I am sure he has a responsibility which he recognizes to contribute to our efforts in the future to remedy these conditions.

I do have one question I might ask. Some expressions in the papers indicate that people, citizens in the State of New York, believe that a part of the trouble was because of leniency on the part of the prison administration and a program of being kind and considerate to prisoners, and that this has given the prisoners the notion that they can cut lose and demand more and not conform to what might be called a rigid regime or regimen. I wonder if the gentleman would comment on that?

Mr. BADILLO. I shall be glad to.

This was not a riot of people trying to escape. This was a riot of people trying to improve conditions. There is no doubt in my mind about that. The demands made by the prisoners were for improved conditions of prison life. When we took the vote, the only item that had anything remotely resembling escape was item 2, about speedy transportation to a nonimperialistic country. When we took a vote, that got no support at all. That was extraordinary, because I understand there were more than 200 prisoners who had life sentences. There was not anything like 200 who voted to support this, and yet these were prisoners there for life.

There is no doubt in my mind it was not an attempt by prisoners to escape, but it was an attempt to improve prison conditions. That is why I commend to the Members a reading of these proposals, because they are eminently practical, having to do with daily life.

The reality with regard to the prisoners at Attica is that they were allowed one bath a week, and the food they got was only 72 cents worth a day. The conditions there are such that this has nothing to do with the nature of the crime, because whether one committed murder or stole $1,000 he got the same diet and he got the same number of baths.

This has to do with the fact that conditions are not humane living conditions for anyone. This is, I believe, what we have to begin to address ourselves to.

Mr. DOW. Some people seem to think that the prison routine is too lenient and that this leniency has led to the feeling among the prisoners that they could ask for more. This is a philosophy that believes our prison system is not rigid enough. That is the point I was trying to make.

Would the gentleman care to comment further?

Mr. BADILLO. The things they have asked for include the application of the Constitution of the United States and the enforcement of the laws. I believe that the prison officials have an obligation to obey the law even when it comes to those who are confined to prison.

Mr. DOW. Would the gentleman give us some idea as to which one of the demands was the cause of the final difficulty or disagreement, which led to the violence? If the 28 demands were acceptable all around, what demands were made by the prisoners which evidently could not be accepted?

Mr. BADILLO. The demand for amnesty.

We had subdivided that into separate categories. We came to an agreement on what is called administrative amnesty; that is, to insure that prisoners would not be beaten after the revolt.

That was a real concern, because we have pictures, published in the New York papers, showing prisoners being beaten after return to their cells in Queens last year.

We came to an agreement that was very precise, in item 3:

3. Grant complete administrative amnesty to all persons associated with this matter. By administrative amnesty the state agrees:

A. Not to take any adverse parole actions, administrative proceedings, physical punishment or other type of harrassment, such as holding inmates incommunicado, segregating inmates, or keep them in isolation or in 24-hour lockup.

B. The state will grant legal amnesty in regard to all civil actions that could arise from this matter.

C. It is agreed that the State of New York and all its departments, divisions and subdivisions, including the State Department of Corrections and the Attica Correctional Facility and its employes and agents, shall not file or initiate any criminal complaint or act as complainant in any criminal action of any kind or nature relating to property damage or property-related crimes arising out of the incidents at the Attica Correctional Facility during Sept. 9, 10 and 11, 1971.

So that put that down. And, in order to insure that this would be carried out, we had a provision that a team of observers would remain in the institution to insure that there would be no administrative reprisals.

Second, we agreed that there would be no civil complaint regarding property damage.

Then we got to the question of criminal complaints. We were able to get a statement from the district attorney to the effect that he would not conduct wholesale prosecutions but would only prosecute individuals against whom a specific crime could be alleged. It was at that point that we were not able to come to an agreement.

My opinion was that we were dealing with men who know something about the law, because they had all been convicted. We were dealing with men who understand that total amnesty is something that practically cannot be granted. My opinion was that if we could have had additional time it might have been possible to come to an even greater clarification on the question of amnesty, because we were trying to isolate those areas where we could agree and where we could not agree.

I must tell you that I cannot guarantee it would have happened that way, but we have negotiations sometimes that have to go on for many days in the case of other matters, and in a case where you are dealing with 38 hostages it seems to me 3 days to negotiate and get an agreement on 28 proposals is quite an accomplishment. I would say even for a simple labor dispute I know of few areas where you can agree on so much in this short period of time.

With the pressures that we had, we could not solve everything, but on the other hand think of the little time that we had. I think we would have come to an agreement if we could have had more time.

I want to point out in order to gain additional time that on Sunday we ar-

ranged to have television cameras go into the prison yard and had taped interviews with the hostages to show that they were not being harmed or being physically abused, and we got their own statements which were in their own words so that their relatives could be assured.

Then, having done that, I and the committee felt that we had a basis for asking for an additional day even after Governor Rockefeller refused to come. I made the request to Commissioner Oswald for the additional day, and he turned that down. Of course, the State moved in the following morning.

Now, this is to answer your question as to the area in which it broke down and the circumstances under which the negotiations broke down.

Mr. REID of New York. Mr. Speaker, would the gentleman yield to me?

Mr. BADILLO. I yield to the gentleman.

Mr. REID of New York. Could the gentleman enlighten the House with regard to the facts as to what happened to the guards that were killed? What are the facts on that matter?

Mr. BADILLO. I have no personal knowledge of that, because I was allowed to inspect briefly the yard after the prisoners had all been captured, but at that time the dead people had all been removed from the prison and I did not have the opportunity to see them or to look at them.

Mr. REID of New York. Am I correct in understanding that one guard died as a result of a fall from a window?

Mr. BADILLO. Yes.

Mr. REID of New York. And there were two others who were found in a state of rigor mortis?

Mr. BADILLO. No. That is not correct.

Mr. REID of New York. How many guards were killed, then, prior to the action? Do you have any idea as to how many were killed prior to the action of going in?

Mr. BADILLO. As far as I know, just one who had been killed as a result of injuries which I understand were sustained at the commencement of the riot.

Mr. REID of New York. Then, as far as you know, there was no serious mistreatment of the guards following the initial action?

Mr. BADILLO. No, they were. I saw them, of course. I could see that there was not any serious mistreatment of the hostages or the prisoners. In addition to that there were reporters from various newspapers including the New York Times, the Michigan Chronicle, the New York Daily News, and Mr. Barnes from a television station who actually took a record of the prisoners and what they said. Those tapes were available and I am sure they would certainly be made available to an investigation committee.

I want to say with reference to an investigating committee that it is most important, if there is going to be credibility in this matter, particularly in view of the discrepancies and official statements, that the committee that is appointed be not made up of penologists or State officials, but be made up of the broadest possible representation of the public.

I want to say to those people who think it is a mistake to include a broad range of people on the committee that we probably had the most unusual observer committee that has ever been formed in this country working together, a committee which included assemblymen, State Senator John Dunne and representatives of the House of Representatives, it included representatives of the Black Muslims and some of those other radical groups in this country. Yet that committee was able to agree unanimously that it was important for Governor Rockefeller to come to the prison. That committee authorized a statement on Sunday afternoon by unanimous vote to the effect that the committee at Attica prison was now convinced that a massacre of prisoners and guards may take place at this institution and for the sake of all common humanity to implore Governor Rockefeller to come to Attica.

Also, there was a telegram sent immediately to Governor Nelson Rockefeller calling upon him to please go to Attica prison to meet with the observers committee.

We did this because we felt the views that the Governor was getting were all the other way and we wanted the Governor to hear from those who had heard the message of the prisoners and hostages as distinguished from those who would use violence immediately. That is another reason we wanted additional time, until the following day, because we felt that the Governor might begin to receive some additional communications. We did this particularly in New York City where we found out that there was a strike of the telegraph company. One of the stations then put into the Governor's office a telephone so that messages could be called in. We were looking for time, all of us on the committee from the extreme right to the extreme left. We were unanimous in the fact that it was worthwhile to continue negotiations.

I think that despite all the talk and concern and proposals for studies and investigations the important thing for us here today is to commit ourselves to seeing that the tragedy of Attica is never repeated. Penal reform has been studied and studied and studied. We know what must be done. We only lack, apparently, the will to do it. I have now been through two major prison riots in the role of a mediator and conciliator. I hope and pray that I never have to go through these experiences again, and that my friends and colleagues in the Congress may never have to experience for themselves the anguish and torment of those 4 days.

I include at this point in the RECORD the full list of the convicts' proposals accepted by the State officials and a first-person account published in the Daily News based on my 4 days at Attica:

CONVICT PROPOSALS ACCEPTED BY THE STATE

ATTICA, N.Y.—Following are the proposals that State Correction Commissioner Russell G. Oswald has said he will accept:

1. Provide adequate food, water and shelter for all inmates.

2. Inmates shall be permitted to return to their cells or to other suitable accommodations or shelter under their power. The observer committee shall monitor the implementation of this operation.

3. Grant complete administrative amnesty to all persons associated with this matter. By administrative amnesty the state agrees:

A. Not to take any adverse parole actions, administrative proceedings, physical punishment or other type of harassment, such as holding inmates incommunicado, segregating inmates, or keep them in isolation or in 24-hour lockup.

B. The state will grant legal amnesty in regard to all civil actions that could arise from this matter.

C. It is agreed that the State of New York and all its departments, divisions and subdivisions, including the State Department of Corrections and the Attica Correctional Facility and its employes and agents, shall not file or initiate any criminal complaint or act as complainant in any criminal action of any kind or nature relating to property, property damage or property-related crimes arising out of the incidents at the Attica Correctional Facility during Sept. 9, 10 and 11, 1971.

4. Recommend the application of the New York State Minimum Wage Law standards to all work done by inmates. Every effort will be made to make the records of payments available to inmates.

5. Establish by Oct. 1 a permanent ombudsman service for the facility, staffed by appropriate persons from the neighboring communities. Allow all New York State prisoners to be politically active without intimidation or reprisal.

7. Allow true religious freedom.

8. End all censorship of newspaper, magazines and other publications from publishers, unless it is determined by qualified authority, which includes the ombudsman, that the literature in question presents a clear and present danger to the safety and security of the institution. Institution spot-censoring only of letters.

9. Allow all inmates at their own expense to communicate with anyone they please.

10. Institute realistic, effective rehabilitation programs for all inmates according to their offense and personal needs.

11. Modernize the inmate education system, including the establishment of a [Spanish-language] library.

12. Provide an effective narcotics treatment program for all prisoners requesting such treatment.

13. Provide or allow adequate legal assistance to all inmates requesting it, or permit them to use inmate legal assistance of their choice in any proceeding whatsoever. In all such proceedings inmates shall be entitled to appropriate due process of law.

14. Reduce cell time, increase recreation time and provide better recreation facilities and equipment, hopefully by Nov. 1, 1971.

15. Provide a healthy diet, reduce the number of pork dishes, increase fresh fruit daily.

16. Provide adequate medical treatment for every inmate. Engage either a Spanish-speaking doctor or interpreters who will accompany Spanish-speaking inmates to medical interviews.

17. Institute a program for the recruitment and employment of a significant number of black and Spanish-speaking officers.

18. Establish an inmate grievance commission, comprised of one elected inmate from each company, which is authorized to speak to the administration concerning grievances and develop other procedures for inmate participation in the operation and decision-making processes of the institution.

19. Investigate the alleged expropriation of inmate funds and the use of profits from the metal and other shops.

20. The State Commissioner of Correctional Services will recommend that the penal law be changed to cease administrative resentencing of inmates returned for parole violation.

21. Recommend that Menenchino hearings be held promptly and fairly. (This concerns the right of prisoners to be represented legally on parole-violation charges).

22. Recommend necessary legislation and more adequate funds to expand work relief programs.

23. End approved lists for correspondents and visitors.

24. Remove visitation screens as soon as possible.

25. Institute a 30-day maximum for segregation arising out of any one offense. Every effort should be geared toward restoring the individual to regular housing as soon as possible, consistent with safety regulations.

26. Paroled inmates shall not be charged with parole violations for moving traffic violations or driving without a license unconnected with any other crimes.

27. Permit access to outside dentists and doctors at the inmates' own expense within the institution where possible and consistent with scheduling problems, medical diagnosis and health needs.

28. It is expressly understood that members of the observer committee will be permitted into the institution on a reasonable basis to determine whether all of the above provisions are being effectively carried out. If questions of adequacy are raised, the matter will be brought to the attention of the Commissioner of Correctional Services for clearance.

This was signed by Commissioner Oswald.

INSIDE THE WALLS: FRUSTRATION, THEN TRAGEDY

(By HERMAN BADILLO)

This is Rep. Herman Badillo's account of his harrowing three days inside Attica state prison as a member of the observers committee that tried desperately to head off Monday's carnage.

I received a telephone call from Gov. Rockefeller's counsel, Robert Douglass, at 11 a.m. Friday, the morning after the rebellion began, asking me to join the committee. I agreed at once and canceled my schedule for the rest of the day.

At 1 p.m. I and other members of the committee from this area met a state plane at LaGuardia airport that carried us to Batavia Airport. State troopers picked us up there and drove us to the prison. We went directly to a room in the administration building and our ordeal began.

It began quietly enough. We were briefed by State Corrections Commissioner Russell G. Oswald and we received printed copies of the prisoners' demands.

NEGOTIATION NEARLY IMPOSSIBLE TASK

Our first meeting with the rebels came late Friday when we filed into a large room and began the nearly impossible task of negotiating with 1,200 men.

We spoke to the prisoners over microphones in response to their increasing list of demands. Our every statement was met by cheers or boos.

It was a most disorganized session. The inmates could not agree on a representative committee and there seemed to be minor differences among them on almost every issue.

It certainly did not seem that it was an organized revolt or that outside forces were involved, as Gov. Rockefeller later suggested.

Saturday morning we discussed the demands. Agreement was easy on the important demands of improved medical attention for the inmates and a team of observers to make sure there were no physical reprisals against prisoners after the insurrection.

GOT WORD SEALE WAS COMING

Then we got word that Bobby Seale was coming in. We could do nothing until he got there. When he arrived Saturday night we told him our position on the demands, that had grown to 28.

He replied that he needed time, that he had to see Huey Newton, that he could only talk to the prisoners for five minutes. We knew we had to wait at least until Sunday.

When Seale did go before the prisoners they were enraged that he only spoke to them a few minutes. When he left the prison I left with him. Some other members of the committee stayed to talk some more with the rebels. But I saw no point to it. Without Seale there was nothing to talk about.

Then Sunday morning Seale came back but refused to enter the prison. "Nothing can be done," he said, and simply disappeared.

This put us in an impossible negotiating position. We were down to the amnesty issue but the most credible man on our side of the table refused to take part in the negotiations. A new approach was necessary.

The committee then decided to ask Gov. Rockefeller to come in person to the prison, not to grant total amnesty but to consult with us and give us additional time to bridge the gap to the rebels.

We first asked him through his aides and there was no response, just a press release. Then I and several other members of the committee asked him personally to step in. He refused.

It seems to me that the governor was at least partially influenced in this decision and the later one to attack the prison by public pressure for stern action.

All Sunday we were pleading for more time. We had tapes of hostages that we wanted to put on TV so the public could see they were unharmed.

But Commissioner Oswald shattered our hopes for time. At 11 p.m. Sunday he said we would have until 7 a.m. the following day to either succeed or get out.

He was as good as his word. At 7 a.m. we were ordered out and when we refused to leave we were locked inside a room in the administration building and guards were placed outside the door.

WE WERE PRISONERS OF THE STATE

We asked for gas masks and were told there were no more. Oswald declared that we were "prisoners of the state."

The attack came and riot gas began to seep into the room. Some among us who had experienced it before told us to hold water-soaked handkerchiefs to our faces. We did.

We were quite concerned that we'd be shot because all during the ordeal the guards had been most hostile toward us.

When it was over, all members of the committee except the elected officials were ordered to leave. Those of us who remained saw the blood, the destruction, the naked prisoners being herded into cells.

We thought ruefully that this terrible tragedy that cost the lives of two score men might have been avoided if only patience had held sway over the rush to violence.

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

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

Mr. VAN DEERLIN. It seems to me that one of the most startling facts that has been brought out here in the followup to the tragedy has been the absolute one-sidedness of the racial makeup of the guard complement at the prison. Will the material which the gentleman is putting in the RECORD contain any enlargement on this point which he has made?

Mr. BADILLO. There is no other way to enlarge it.

Mr. VAN DEERLIN. For a State that 30 years ago gave us the first and probably still the most effective fair employment practices law, it would seem statistically impossible to assemble a work force of 400 for any type of employment that would include no blacks or Spanish-speaking.

Mr. BADILLO. I must tell you that during the time I was there thousands more State police and National Guardsmen and other people came in addition to the 400 and I did not see any black people in this group or any Spanish-speaking people.

Mr. VAN DEERLIN. Did the gentleman hear any suggestion made as to the reason for the absolute one-sidedness of that staff?

Mr. BADILLO. Nothing other than the usual answer: that they could not find anyone who would apply for the job.

Mr. VAN DEERLIN. In other words, the same as we are told with reference to the National Guard?

Mr. BADILLO. That is the system in employment when it comes to the hiring of a significant number of black and Spanish-speaking people but, certainly, you know that throughout the State and the National Guard there are black and Spanish-speaking people willing to perform these services.

The point is that there just was not anyone to represent in any way the prison population, and that is one of the things that certainly can be corrected with the help of funds from this Congress.

Mr. VAN DEERLIN. Surely the gentleman would agree that the total absence of minority staffing at Attica tells its own story without further comment.

Mr. BADILLO. Certainly.

Mr. PEYSER. Mr. Speaker, would the gentleman yield?

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

Mr. PEYSER. Mr. Speaker, I can appreciate the fact that the gentleman from New York (Mr. BADILLO) has really represented the Congress in being involved in this situation at Attica. However, one of the things that the gentleman said raises a question in my mind dealing with Governor Rockefeller, and that is the implication, frankly, of your last statement concerning the Governor was, it seems to me, one that might imply that the gentleman was laying the results of this tragedy at the Governor's feet.

Mr. BADILLO. No, I do not know what statement you mean.

Mr. PEYSER. I am referring to the statement you made that if the Governor had come to Attica you felt that this could have all been averted.

Mr. BADILLO. No, I said I have no way to tell that it would have been. I thought I had made that clear.

Mr. PEYSER. I do not like anyone to think that it was because of our Governor not being heard in that situation.

Mr. BADILLO. No, I was not speaking for myself, and that is why I read the statement, and this was the statement which was signed by everyone of the observers there, including Mr. Dunne who is a Republican, and chairman of the joint committee on penal law in the State legislature, and including the local assemblymen from the area, and also a Republican. So it was not a partisan statement.

Mr. PEYSER. I did not want to have it

indicated that this was placing the primary responsibility on someone like Governor Rockefeller, because I do not really believe that is the case in this situation.

Mr. BADILLO. No.

Mr. PEYSER. If I may continue further, I thought it would be of interest to state that the problem in the State of New York is multiplied throughout this country in all prisons. There is no question on that. However, the State of New York, as bad off as it is, insofar as funds are concerned, and when all of the budgetary programs have been cut back in the State of New York, that in the State of New York, under the Governor's direction, the only budget that was increased, and which was increased by $5 million, was the budget dealing with the State prisons. And this did happen long before the Attica situation. But even at that, it is not enough, I grant that, but I wanted it to be understood that that did happen in the State of New York.

Mr. MIKVA. Let me assure the gentleman from New York that as a Congressman from Illinois that I certainly do not think that New York has a monopoly on the problems in prisons, and penal institutions in this country. I doubt that any Member of the Congress who wishes to examine the problem would think that they can break their arm congratulating themselves on their own State, because I do not know of any prison or jail that could not explode the way Attica did.

Mr. DELLUMS. Mr. Speaker, Monday, September 13, 1971, will go down in American history as another day of infamy, as a day of tragedy and disgrace. The deaths at the Attica Correctional Facility in New York are, I think, a reflection of how this country and its public officials deal with crisis and conflict. That is, with a show of force.

It has often been said that history repeats itself. The first time it is a tragedy, the next a farce. The brutality and inhumanity at Attica is both a tragedy and a farce. It is a tragedy in that valuable human lives were lost and a farce in the sense that our national resources and the truculence of public officials were oblivious to the dehumanizing conditions at Attica which ultimately give rise to such devastation of human lives.

Attica is not a sore; it is not isolated.

Thousands of prisons not unlike Attica exist in America today and our somewhat shrouded history is pockmarked with risings such as the one at Attica. I would like to read to you an annotated history of prison riots which have occurred over the last 60 years. The article follows:

HISTORY OF PRISONER RIOTS

Prison riots have been a part of prison history in this country, but the loss of life at Attica Prison yesterday was surpassed only once previously. On April 21, 1930, 317 inmates at Ohio State Penitentiary, locked in their cells, died in a fire set by other, rioting, prisoners.

Other notable prison uprisings included the following:

Folsom Prison, Calif., November, 1927: nine prisoners and three hostage guards were killed after pitched battles between prisoners and National Guard.

Nebraska State Penitentiary, July 7, 1912: 1,000 convicts rioted, killing an official, a guard, and three other inmates. Later that year 350 inmates at Wyoming State Prison lynched a Negro prisoner then 20 inmates escaped, killing three guards.

Clinton Prison, Dannemora, N.Y., July 22, 1929: three prisoners killed after riots over overcrowding. Six days later, inmates at Auburn State Prison also rioted after four of them escaped. Two convicts and three guards were killed.

Colorado State Prison, Oct. 3, 1929: seven guards were murdered and five convicts involved in an abortive escape plot committed suicide.

Auburn State Prison, N.Y., Dec. 11, 1929: eight prisoners and the chief keeper were slain. The warden, held hostage, was rescued by state troopers.

Alcatraz, May 2, 1946: two guards and three inmates were killed in a riot that eventually saw units of United States Marines landed on the island in San Francisco Bay.

Ohio State Penitentiary, Aug. 21, 1968: five convicts were shot to death when 500 National Guardsmen and police charged through a hole blasted in the prison wall to quell a riot by 350 prisoners, who were protesting "sadistic guards," among other things.

Oregon State Penitentiary, March 9, 1968: no one was killed, but about $2-million worth of damage was done by fire by 700 rebellious convicts. The inmates surrendered after winning major concessions including the appointment of a new warden.

There is no doubt in my mind—and I believe in the minds of many millions of Americans—that reform of prisons and correctional facilities should be one of our uppermost domestic goals. I need not remind you, to quote Dostoevsky, that—

The degree of civilization in a society can be judged by entering its prison.

We must first admit that there are serious problems with our prisons. I do not believe this is a time when both sides can stand face to face and call names and make accusations. The facts support objective assessments of our prison systems.

We do not need heated rhetoric, but staunch and determined effort to humanize our prisons, to bring them into the 20th century. A New York Times news dispatch of September 14 is an example of this sustained and vicious word-mongering. Yet, this is a precise example of what we do not need. I enter it for your consideration:

GOVERNOR CONTENDS UPRISING WAS WORK OF REVOLUTIONARIES

(By William E. Farrell)

Governor Rockefeller said yesterday that the uprising at Attica Prison was brought on by the "revolutionary tactics of militants" and that he had ordered "a full investigation of all the factors leading to this uprising, including the role that outside forces would appear to have played."

The Governor's comments were contained in a statement issued by his office here following one of the most critical moves of his 13 years in office—his sanctioning of the decision of State Commissioner of Correction Russell G. Oswald to storm the prison. Twenty-eight prisoners and nine guards who had been held hostage died as the assault forces moved in.

The action taken by the state prompted President Nixon to phone the Governor to express support for his actions in dealing with the prison rebellion.

Mr. Rockefeller was not personally available to comment on the uprising.

STATEMENT IS ISSUED

Instead, a statement was issued by his press secretary, Ronald Maiorana, that said:

Our hearts go out to the families of the hostages who died at Attica.

The tragedy was brought on by the highly organized, revolutionary tactics of militants who rejected all efforts at a peaceful settlement, forced a confrontation and carried out cold-blooded killings they had threatened from the outset.

We can be grateful that the skill and courage of the state police and correction officers, supported by the National Guard and sheriff's deputies, saved the lives of 29 hostages—and that their restraint held down casualties among prisoners as well.

It was only after four days and nights of patient 'round-the-clock negotiations with the prisoners by Commissioner Oswald and the citizens' committee, exploring all possible means of peacefully securing the release of the hostages, that the state police went in to rescue the hostages and restore order.

I have ordered a full investigation of all the factors leading to this uprising including the role that outside forces would appear to have played.

NO ELABORATION OFFERED

Asked whether the Governor had any intelligence regarding a militant plot or who the "outside forces" might be, Mr. Maiorana said there would be no elaboration at this time.

There was speculation that the investigation of the Attica uprising would be handled by Robert E. Fischer, the deputy state attorney general who is director of the State Task Force Against Organized Crime.

The Governor began getting telephone calls regarding the situation at Attica at 6 A.M. at his Pocantico Hills estate.

By 8 A.M., he was at his apartment at 810 Fifth Avenue, where for the next half-hour he was involved in a discussion of his proposed $2.5-billion transportation bond issue with Dr. William J. Ronan, chairman of the Metropolitan Transportation Authority, and with Richard A. Wiebe, state director of planning and coordination services.

Also present were Mr. Maiorana and Hugh Morrow, the Governor's director of communications.

The bond issue was to have been the subject of a news conference that the Governor canceled yesterday, along with plans to go to the National Governors' Conference in San Juan, P.R.

"Everything we talked about was against the backdrop of the telephone ringing," Mr. Maiorana said.

SECRETARY ON SCENE

In addition to Commissioner Oswald, the Governor was in touch with two key aides he had previously dispatched to Attica his secretary, Robert R. Douglass, and T. Norman Hurd, the director of state operations.

The decision to send in troopers and New York National Guardsmen, who had been quietly called up Sunday by the Governor, was "made by the people at the scene," the press secretary said.

"They told him what the conditions were and he backed them all the way. The Governor, in effect, told Oswald you do whatever you have to do and I'll back you," Mr. Maiorana said.

Shortly after 9 A.M., the Governor was told that the decision had been made to move on the prison.

"He turned to us and said, 'We're going in.'"

Mr. Rockefeller was given an eyewitness description over the telephone of some of what was happening by Mr. Douglass.

When the first of the hostages were freed, the Governor exclaimed: "My God!"

"There was definite relief on his face that

even one hostage came out," the press secretary said.

Mr. Maiorana also said that Commissioner Oswald had told the Governor that several of the slain hostages had, according to preliminary medical examinations, been killed hours prior to the issuance of the Commissioner's ultimatum to the prisoners.

VISIT TO ATTICA REJECTED

On Sunday, the Governor rejected a request from the observers' panel called to Attica by prisoners to go to the prison, saying that he did not feel his physical presence could "contribute to a peaceful settlement."

Asked whether the Governor might not still go to Attica, the press secretary said: "I don't think so."

The Governor went to his office at 22 West 55th Street around noon. There, he telephoned the Wyoming County District Attorney, Louis R. James, to compliment him on his stand on refusing one of the prisoners' key demands—complete amnesty from criminal prosecution.

In a telephone interview from her home in Warsaw, Mrs. Ruth James, the District Attorney's wife who took the call, said that "Governor Rockefeller called and asked me to express his gratitude for the way he (Mr. James) handled it and the stand he took on this amnesty business."

Mrs. James also said the Governor told her that President Nixon had called him to express support of the way the uprising was handled.

While verbal epithets, accusations, and castigations are slung back and forth, thousands of valuable lives hang in the balance between life and death. We should be concerned about how many lives we can save. The war in Vietnam—as all wars—domestic conflict, violence by the State and individuals has numbed our sensibilities. Our humanity in a sense has been maimed.

California, with its reputed progressive strides in parole and probation programs, its low-repeater rates, and its overall reduction of the prison population is also subject to this malaise. Prisons in California are seething volcanoes of hatred. Since the vast majority of inmates eventually and inevitably wind up among us again, that hatred will touch us, too.

The slaying of George Jackson at San Quentin on August 21 was the first real spark in the debate over prison reform. I think we would do well to learn from Attica and San Quentin. I would like to read three articles for the consideration of the Members of Congress. The first is a report from the San Francisco Post concerning a delegation of black investigators to San Quentin shortly after the death of George Jackson. The second dispatch is also from the Post appropriately entitled, "Behind the Prison Walls." The third article, from the New York Times of September 14, deals with specific proposals for reform in criminal laws. These dispatches follow:

[From the San Francisco Post]

SAN QUENTIN GATES OPENED FOR BLACK INVESTIGATORS

(By Mary Ellen Perry)

We waited outside the gates of San Quentin state prison for 12 hours last Friday but we finally got an impartial report on conditions of inmates in the so-called "adjustment center" hidden in the recesses of the foreboding walls of the prison.

It took persistent persuasion from San Francisco Black Assemblyman Willie Brown—as Eastbay Congressman Ronald V. Dellums had said earlier that day—"to turn yesterday's no into today's yes," to let a delegation of Black investigators into the prison.

From 10 a.m. in the bright, warm morning until 9:30 p.m. in the clear, cool night, we waited. Finally, Assemblyman Brown, Congressman Dellums, San Francisco physician Carleton Goodlett and Richmond attorney Henry Ramsey returned through the door, drawn and hollow-eyed.

Their more-than-six-hour meeting resulted in two reports—from Dr. Goodlett and from Congressman Dellums.

Dr. Goodlett reported on the medical condition of the prisoners in the adjustment center:

"We saw all but four of the prisoners in the center. We were told that two had locked themselves in their cells and that two were in the hospital. We saw the medical records on all 26.

"The prisoners showed signs of bodily injury," the doctor said, confirming assumptions made by spectators and the press. "Contusions (bruises), lacerations (cuts) and abrasions. Both inmates and the warden agreed that almost all the injuries happened on Saturday (the day George Jackson was shot) and that they were the result of unusual punishment by the guards." Dr. Goodlett said that inmate Hugo "Yogi" Pinell was injured that Friday, having "bruises to the chest, an abrasion of the right forearm and a sprained right wrist." He said the injuries of all except Pinell appeared to be at least 36 hours old, including marks that looked like old cigarette burns.

On the condition of Fleeta Drumgo and John Cluchette, the two surviving Soledad Brothers, Dr. Goodlett reported: "John has blisters on his ankles, due to the leg irons. Some of the prisoners have slowed circulation and I asked that their hand and leg cuffs be loosened." Drumgo's mother earlier had reported his condition to be improved.

Congressman Dellums reported on the requests made to him by the prisoners for improvements in their living conditions and the responses of prison officials when he relayed those requests.

Dellums said:

"Family visits will begin tomorrow (Saturday) if guards are not pulled away to duty at the gate.

"Attorney visits will resume as normal on the same conditions.

"Writing materials, legal papers, books and other items confiscated for the investigation will be returned tomorrow (Saturday).

"Hot meals as normal tomorrow, subject to the availability of personnel." (The prisoners had been given two bag-lunches a day, each containing two sandwiches and a piece of fruit, since the preceding Sunday.)

"Shoes will be returned tomorrow. All prisoners have been without shoes, which were confiscated for the investigation. The officials told us that prisoners have socks, clothing and bedding.

"On Monday (August 30), the Marin County Grand Jury will visit the adjustment center for further investigation."

Thus ended the congressman's report of what prison officials had told him and what prisoners' concerns were.

Asked if prisoners had been brutalized, Congressman Dellums replied:

"There were bruises—it's obvious that people had been struck. We saw four inmates whose eyebrows had been shaved off by the guards who cut their hair."

Assemblyman Brown's comments were that prison officials had assured the delegation that "the prison administration welcomes a continuing dialogue with community people—not only legislators but family organizations, ex-inmate organizations and others."

When some members of the dwindled crowd appeared dissatisfied with the fact that there were still unanswered questions and that the delegation could not answer all queries concerning individual inmates, the four Black spokesmen said they felt it was significant that they had managed to visit the adjustment center for more than two hours, unencumbered, and that they had not expected to discuss all phases of prison administration with the officials.

[From the San Francisco Post]

BEHIND THE PRISON WALLS

In the beginning of the Soledad trial, there were three brothers. One is dead. George Jackson. Fleeta Drumgo and John Cluchette are now behind the walls of a tense San Quentin. They are the two that remain.

Some white guards and two white prisoners are also gone but many others still remain. San Quentin is at war. People are known to fight for lesser things than human lives.

BACKGROUND

Black and Brown inmates at San Quentin Prison have been engaged in a vicious and protracted struggle with white inmates for the past months. Four other men have died since January of this year and over a dozen stabbings have taken place.

Some have called it political struggle. The Black and Brown brothers announced the formation of a third world coalition in February and spokesmen for Self-Advancement Through Education (SATE) claim Nazi provoked white inmates incited attack on Wayne Early, a membership director of SATE. The attack was seen as an effort to destroy the newly formed Black and Brown alliance and to intimidate the leader of SATE.

LEADERS

Paul Cook is a former inmate of San Quentin. "The struggle behind the wall of San Quentin is to get rid of Black leaders," he says. "They don't want Ruchell Magee and others to show how crooked the prison system is. The prisons are big business and they exploit the labor of the inmates. They also have lots of guys as George Jackson and others with brains that would be able to tell what a rotten system prison life really is. It's a continual regimentation process."

Popeye Jackson, a member of the United Prisoners Union, said George Jackson "could have done more to help the UPU organization get going than any man alive. He was an organizer and he had read and learned all the writings of Fanon, Che, Mao, Nkruma, Marx and others and knew what they meant to the struggle."

Since the incident between Blacks and Chicanos at San Quentin, there has been a reaffirmation of the coalition and Black leaders have been said to be getting the harassment. A number of Black inmates have been reported to be in isolation and many of prison acquaintance believe this is the reason that investigation privileges have been denied between the time of Jackson's death on August 21 and last Saturday when a white press trio and the Dellums delegation were admitted.

OTHER PRISONS

Two hundred Deuel Vocational Institute inmates rioted, Superintendent L. N. Patterson reported July 12, and a 38-year-old prisoner, Thomas O'Niel, was the victim of the stabbing. He died while standing in front of his cell, it was reported.

In San Francisco members of dozens of law firms joined in a civil rights suit calling county jails unfit for human habitation.

Missing, the suit claimed, were adequate food, medicine, sanitary conditions and educational and recreational facilities. Other complaints said medical care was bad, in that doctors see 100 patients in less than four hours.

Attorney M. Lawrence Popofski reported that the San Francisco prison scene was one of inadequate beds, clothing and blankets and that "the law of the jungle prevails, with sleeping facilities going to the strongest."

REPRESSION

According to a July 15, 1970, report, there were 3,500 members of the California Correctional Officers Association. They survive solely because the death penalty protects them from the long-term inmate. Since that time, guards have been increased at San Quentin and other prisons. On August 15, Associate Warden James Park said that the prison would have to be taken back to being an old-fashioned one.

The prisoners claim that repression and bad conditions are what they are fighting. They want, according to the United Prisoners Union, the abolition of the indeterminate sentence. Also included in their demands are: an investigating committee of state legislators, better quality and quantity of food, sanitary conditions, lowering of canteen prices, an accounting of canteen profits, equality of privileges for inmates throughout all cell blocks, doctors on a 24-hour basis, health and sanitation checks, and end to general harassment, and the right of Chicano and Black inmates to relate freely to their own cultural styles.

[From the New York Times, Sept. 14, 1971]

REFORM IN "VICTIMLESS CRIME" LAWS URGED AT LEGISLATIVE HEARING

(By Ric Pace)

To alleviate the overcrowding of prisons and other weakness of the criminal justice system, Investigation Commissioner Robert K. Ruskin and other high officials urged reforms in laws concerning gambling and other "victimless crimes."

At a legislature hearing here yesterday, they cited the bloodshed at Attica Correction Facility as a symptom of longstanding ills in the penal system, and it seemed likely that the proceedings would spur calls for swift reforms.

William J. vandem Heuvel, chairman of the city's Board of Correction, said, "To use prisons as a warehouse for the "victimless' criminals is an ordinate waste of money."

He said "the whole respect for the law" was undermined by spotty enforcement of legislation against such so-called victimless crimes as prostitution, homosexuality and gambling.

The day-long session was held by an ad hoc state legislative committee on victimless crimes. The committee members present were Assemblyman Antonio Olivieri, Manhattan Democrat, and Stephen Solarz, a Democrat from Brooklyn. The hearings was held at the headquarters of the Association of the Bar of The City of New York, at 42 West 44th Street.

COURT BURDEN CITED

"Jails are overcrowded, courts are overburdened, and justice is dispensed in assembly line fashion" said Mr. Ruskin, speaking in a personal capacity. He said it was essential that gambling, homosexual and prostitution laws be changed for several purposes. These included conserving police energies for more serious crimes, lightening the load on the courts, and reducing police corruption.

Assemblyman Olivieri, in an interview after the session, said that probably 20 per cent of the prisoners at Attica and other state prisons had been convicted of victimless crimes. This figure, he said, excluded narcotics offenses.

"Attica Prison is a prime example of what happens when we fill our jails to the overcrowding point because we are arresting and imprisoning people that belong in medical treatment facilities," he declared.

"If you could reduce the prison population by even 20 per cent you could concentrate the limited funds available on significant rehabilitation and work programs.

"The prison situation is only one of the many reasons to reform our laws on victimless crimes, but it is a prime example of the need for immediate change in the rehabilitation system."

Specific changes in the law were proposed by Assistant District Attorney Kenneth Gribetz, speaking for Manhattan District Attorney Frank S. Hogan.

Mr. Gribetz recommended legalizing consentual sodomy or treating it as a social rather than a criminal problem. He also spoke in favor of changing alcoholic beverage laws to substitute fines for all prison sentences, and of changing laws that provide for imprisoning peddlers and drunks.

The tenor of the statements by the eight speakers was overwhelmingly in favor of liberalizing laws concerning gambling, prostitution and homosexuality.

But a fervent dissenting statement was made by former City Controller Mario A. Procaccino.

Mr. Procaccino, a former mayoral candidate said:

"I urge you to reject (appeals) to emasculate laws dealing with homosexuality and prostitution. Rather, I urge you to strengthen these laws.

"Today, New York City, encouraged by the present city administration, has become a mecca for crime, dissension, polarization, lawlessness, filth and corruption, as well as a city under siege by criminals, pimps, prostitutes and homosexuals.

"Over recent years, those I call the 'limousine liberals' as well as certain other tinhorn politicians, liberals, leftovers and left-outs have encouraged the phony 'cult of permissiveness' syndrome. The sexual freaks of both sexes, flaunting their perversions in the current atmosphere, now have the temerity to demand that our legislature condone bestial carnality."

The hearings are to continue today and tomorrow.

The critical question before this country is, Where do we go from here? There is some obvious sentiment to further restrict the freedom in prisons and to make laws more repressive. This is not the way. Restriction of freedoms and additional repressive laws only exacerbate an already explosive and dangerous condition.

Progressive and far-reaching prison reform legislation is needed. The critical areas are structure of prison systems, inmate participation in those decisions which directly affect their lives, reform of the administrative processes both within and outside of prisons, extension of civil liberties and civil rights to prisoners, reform in the criminal justice system, in the laws, and, most importantly, the removal of those badges of sin which ex-convicts carry for the rest of their lives because society will not let them forget their crimes.

Only by removing ourselves from this perpetual dance of death can men be men with a sense of humanity and pride. I submit that now is the time to begin.

Mr. RYAN. Mr. Speaker, what began at Attica prison last Thursday as a long-foreseeable protest against inhuman prison conditions has ended in a bloodbath that can only bring shock and sorrow to all Americans.

Forty-one people are now dead. Some were guards. Some were inmates. All were human beings.

Amid the contradictions and uncertainties still surrounding many aspects of this tragic occurrence, a series of much larger questions must be faced. No inquest can retrieve the lives that have been lost. It can only provide a glimpse of wisdom for the future.

We must realize that our system of criminal justice is archaic and in chaos. It does not represent an enlightened administration of justice.

Our correctional institutions do not correct. Their most consistent achievement is in the tempering and shaping of inmates into finely honed weapons, weapons which one day will be turned against society again. Our prison system all too often brutalizes rather than rehabilitates. Only 2 weeks before the Attica uprising, a State legislative committee deemed New York's penal system so bad that it found the term "correction" as applied to the system, a farce.

Overcrowding, inadequate facilities, and poorly trained staff plague our prisons. There is a pressing need for modernization, and enlargement of confinement facilities. But prison reform will not be achieved by building bigger jails with higher walls.

The rate of recidivism is currently 60 to 70 percent. Our prisons are virtually graduate schools of crime. Our corrections system must be used to break the crime cycle, rather than reinforce it.

It is a tragic fact that our public leadership has not responded with the courage, the commitment, and the insight demanded by the profound gravity of this problem.

We have witnessed a dreadful nightmare at Attica. Now we must insure that that nightmare is not an omen of things to come. Out of the bloodshed at Attica must come the recognition that this country has been living on borrowed time in its failure to correct the abysmal and inhuman conditions that make life intolerable in virtually every one of our penal institutions. It is high time we committeed this Government and the people of this Nation to a total effort to meet the problem of criminal rehabilitation.

In the aftermath of the tragic loss of life at Attica, there has been widespread shock, bewilderment, and anger. But there must be something else as well—there must be a deepening and real concern over the basic failures of our prison system, failures that can never be remedied by the spilling of blood.

This Congress has a responsibility to look into those failures, and to act to correct them. To this end I urge that the House Judiciary Committee conduct a full and exhaustive investigation into the entire matter of penal reform. Hopefully such an investigation can start us down the road to insuring that the horrors of Attica are never repeated again.

Mr. BELL. Mr. Speaker, the total bankruptcy of the correctional system in the United States has been common knowledge for those of us here in Congress for many, many years.

Long before most of us had ever heard of a place called Attica, we knew that we were living on borrowed time as far as our jails and prisons were concerned.

For years we have seen the crime rate soaring upward. We have long known that about 80 percent of the serious crime in this Nation is committed by people

who have been through these misnamed "correctional" institutions.

For years we have ignored pleas of prison officials for better trained personnel, for decent pay, for improved security, and for just a small measure of public support.

We have long known that of over 3,000 jails in the Nation, about 85 percent have no recreational or educational facilities of any kind. About 50 percent have no medical facilities. About 25 percent have no visiting facilities.

Long before a President and a Chief Justice of the Supreme Court called these "correctional" institutions "schools of crime" we knew that they were functioning in fact to do just the opposite of what they were designed to do. We knew we were turning out people without the skills, without the motivation, and without the attitudes to equip them for productive and crime-free lives.

We have known for some time that our cities—and more recently our suburbs—are becoming uncomfortable places to live because of the rising threat of crime. Yet, for some reason we have been most unwilling to do what is necessary to attack the problem. We are unwilling to go beyond self-serving rhetoric and slick-sounding, simplistic solutions. We are unwilling to pay what it would really cost to give our criminal offenders the wherewithal to lead useful, productive lives so that they are no longer threatening you and me and our famililes on our streets and in our homes.

In the name of avoiding criticism for "coddling criminals" we are turning too many of these people into desperate men who come back on our streets with savage bitterness to rob, assault, and murder.

Attica was perhaps the ultimate expression of a system which has failed all of us. It is first of all a tragedy of lost lives and grief-stricken families. And in a broader sense, it is an expression of the fact that a series of highly desirable changes were authorized only under the intense duress of a costly riot.

All of us feel wrought with emotion in the aftermath of the tragedy at Attica. I am stricken with sadness at the unnecessary loss of life. I am horrified at the violence and savagery of the individuals and the events of the days of the tragedy. And I am angry and greatly frustrated by the inertia here in Congress and throughout the Nation over the issue of reform of our correctional institutions.

This inertia cripples the efforts of dedicated and progressive prison officials. It fails to prepare criminal offenders for useful and meaningful lives after they are released from prison. It permits the schooling of men in the ways of crime and contributes to the rising crime rate. And it creates bitter and desperate men who sometimes respond with the savagery of the Attica riot.

It was my hope long before the Attica tragedy that this Congress would demonstrate a new departure from the failures of the past in the effort to attack the crime problem. It has been my hope that we would see the wisdom of moving away from simplistic and ineffective solutions which might be politically popular in the short run. Instead, my hope has been that we would move in the more difficult but more effective direction of improved corrections systems, modernized court procedures, and speedy trials.

The mass tragedy at Attica—and the hidden individual tragedies behind the walls of prisons throughout the Nation—demonstrate clearly that we have not yet moved in that new direction.

It is for this reason that I am joining my colleague Mr. MIKVA in calling upon my colleagues in the House to join us in a bipartisan coalition of representatives dedicated to a relentless effort to move legislation through this Congress which will turn our correctional institutions around and make them work for us rather than against us.

The American correctional system is a disgrace to a civilized society. It is my hope that in the rubble of Attica the coalition we form will dedicate itself to the kind of thoroughgoing reform of our correctional system which we have needed for so long.

GENERAL LEAVE

Mr. MIKVA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

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

There was no objection.

LOS ANGELES TIMES ARTICLE DEPICTS THE VANISHING WILDERNESS AREAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SAYLOR) is recognized for 10 minutes.

Mr. SAYLOR. Mr. Speaker, on August 15, the Los Angeles Times published a detailed article on the declining wilderness areas, mainly in the Golden State. Entitled "National Wilderness Areas—They Exist in Name Only," the piece is a true report on the impact of man on his natural environment. Mr. Philip Fradkin, author of the report, points out that, even in areas set aside as wilderness, man befouls such places to the point where other men must be prohibited from entering.

The Fradkin article makes some telling points about man's careless use of his natural environment, especially in areas set-aside specifically for his enjoyment, but I believe the real lesson to be gained is that the demand for such areas is increasing faster than some would like to believe.

The demand for more wilderness areas noticeable from the statistics of increasing use of those areas already in existence should serve as an environmental guide to the U.S. Congress. Congress has been niggardly in providing natural areas for the citizens of the country to visit. The "back to nature" syndrome is real and it is no wonder considering the pressures which face all people in our technological society. I am not condemning the society, but I do believe there is considerable value to the fabric of society if places are provided for a short respite from the hubub. I am not advocating that we turn back the clock, tear down the cities, rip up the highways, and go back to wearing loin cloths. I am advocating that the Nation make available places of peace by preserving some of nature's beauty and quiet.

Not everyone wants to pack through the mountains as did John Muir; not everyone enjoys peace and quiet; not everyone is willing to accept the hazards and inconveniences of battling the elements; but there is an increasing number of Americans who do require a "change of pace." The statistics on public use of wilderness areas, national forests, national parks, national seashores, and other national areas will continue to increase geometrically as the amount of space remains constant or declines. We must not allow wilderness to disappear and the only possible way to save the few remaining areas there are in the country is through action by the Congress of the United States.

I have introduced several wilderness suggestions this year; many are proposals first recommended 7 and 8 years ago when we started the agonizing legislative process to establish a National Wilderness System. The bills I have introduced this year include: H.R. 4621, H.R. 6496, H.R. 7907, and H.R. 9965. Tomorrow, I will introduce another "omnibus wilderness bill" which will be referred to the House Interior and Insular Affairs Committee. Naturally, I would welcome additional cosponsors to the new bill.

Reading the Los Angeles Times article is a good introduction to the story of the national need for additional wilderness areas. The article is pessimistic in some respects but I believe this Congress will need the increasing number of voices from the public demanding more wilderness areas and will respond positively.

The article follows:

NATIONAL WILDERNESS AREAS—THEY EXIST IN NAME ONLY

(By Philip Fradkin)

"A wilderness, in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain."—Public Law 88-577, otherwise known as the Wilderness Act of 1964.

On April 28 of this year, the Nixon Administration used the full resources of the White House to publicize its proposals for establishment of new wilderness areas.

The President issued a brave statement and Interior Secretary Rogers C. B. Morton briefed reporters on the Administration's proposal to set aside 14 wildlife refuges or national parks in nine states as wilderness areas.

It made front page news. Preservation of wilderness, in one stroke, was raised to the level of presidential concern.

The largest such area proposed for wilderness status was 721,970 acres in Sequoia and Kings Canyon National Parks in the Sierra Nevada.

But a close look at the condition of the wilderness values of these two national parks, which are administered jointly, shows:

Hikers into the remote back country are warned to boil their drinking water for 10 minutes or use purification tablets because

the otherwise crystal-clear mountain waters might be contaminated by human wastes.

SOME LAKES CLOSED

Some glacier-formed lakes at the 10,000-foot level of the High Sierra have been closed to camping because of human pollution. Others have a one-night limit or numbered campsites similar to auto camp grounds at lower elevations because of crowding.

The campfire is almost a tradition of the past because firewood has been stripped from most campsites. In their search for wood, campers are chopping down green trees. A boot can stir up dust where once vegetation grew in profusion.

It is not safe to leave a fishing rod, camera, backpack or sleeping bag unattended along the trail. They are often stolen.

Wildlife is disappearing and rare species are becoming even rarer in the mountains which conservationist John Muir once called, "The Range of Light."

Such examples of overcrowding in wilderness areas are most evident along the popular John Muir Trail and within a one-day walk of most access roads, a hiking survey of four wilderness areas determined.

The problems caused by the growing impact on wilderness areas are not confined to Sequoia-Kings Canyon. They can be seen up and down the Sierra Nevada in other national parks and national forests.

Although such overuse is most evident in California, which has the largest population and number of wilderness areas of any state, other sections of the country are beginning to experience it.

Hikers were turned back from the descent into the bottom of the Grand Canyon in Arizona over the Easter weekend if they did not have advance reservations for camping sites.

A limit of 10,000—the number which shot the rapids of the Colorado River last year in commercial raft trips—has now been imposed by the Park Service, which administers the Grand Canyon National Park.

Although permits are required for the first time this year in wilderness areas administered by the Forest Service in California, they have been needed for a number of years in the Boundary Waters Canoe Area in northern Minnesota.

CANS, BOTTLES BANNED

In that wilderness area—which competes with the John Muir and Minarets Wilderness Areas in California for the distinction of being the most crowded in the nation—cans and bottles have been banned in an attempt to deal with the litter problem.

Areas which have been formally declared wilderness under provisions of the 1964 act comprise about 1% of the total land area of California and about 0.5% on a national scale.

These percentages will not change appreciably even with further scheduled additions to wilderness areas by the 1974 deadline of the act.

The implications of gross overuse of wilderness areas the broad. If there is overcrowding in such mountain areas, then where is there to go?

Has America, and particularly California, lost its last vestige of wilderness?

A few hundred yards up the John Muir Trail from the parking lot a woman asked a hiker, "Aren't you afraid to go up there alone? I'd go up there with my husband, but not alone. It's too scary." What is there to be afraid of? No television? One-self? Solitude?

While the use of wilderness tends to be concentrated along a few well-known routes, more people every year are getting out farther.

The sonic boom from military aircraft is ever present as are the faintest traces of human intrusion, such as footprints in a mountain meadow or charred stones from an old campfire.

It is almost impossible to get away from other people and find solitude.

Traffic along the trails is constant at the height of the season, which is from mid-July to the end of August, and it is a rare lake that does not have at least one camping party on its shores.

The Desolation Wilderness Area near Lake Tahoe has experienced an average 23% increase a year in backpacking activity in recent years and in Sequoia-Kings Canyon there has been a 100% increase in the use of the back country over the last five years, compared to only a 10% increase in total park visitors.

This year, judging from reports from retail stores, there promises to be a virtual explosion in backpacking into wilderness areas—a movement matching the back-to-nature aspects of the boom in bicycle riding, organic foods and cross-country skiing.

Ski areas and mountain roads which are frequently built to serve them are viewed as the greatest threat to wilderness areas. The Forest Service, which issues permits for ski areas, counts more wilderness users than ski-area users in the state—1.7 million as compared to 1.3 million.

The trail was covered with dust-like pumice, formed from an ancient lava flow. It climbed through a forest of red fir, silver pine, lodge-pole pine and mountain hemlock. The first steep grade was a catharsis. The tension of city living flowed out of the hiker in the still heat. The first drink of mountain water was biting and sweet. The trees had a Christmas-time scent.

The public agencies which deal with the wilderness seem to be working at cross purposes without any common goal.

The State Department of Fish and Game objects to the Inyo County Board of Supervisors pushing a road into the Horseshoe Meadows area where the proposed Trail Peak ski area will be built with Forest Service approval.

Fish and game officials said that the rare Golden Trout will be wiped out by the larger number of visitors to the area which the new road will bring.

Yet the Forest Service sometimes objects to the department's planting trout in some lakes which are overused, thus encouraging more use.

The Forest Service first made wilderness areas more liveable by installing various facilities. Now that Agriculture Department agency is operating under a wilderness philosophy to match the "untrammeled" requirements of the act.

Such improvements as bridges over streams will be removed along with toilet facilities, picnic tables and fireplaces in the Inyo National Forest wilderness areas on the east side of the Sierra Nevada.

"Make it too easy and too many people come in and the wilderness experience is lost" is the current Forest Service thinking on wilderness area management.

Yet at neighboring Sequoia and Kings Canyon National Parks, administered by an Interior Department agency, the wilderness proposal which the Nixon Administration approved calls for five enclaves of semi-civilization in the back country.

Into these 100 to 200-acre areas would be put toilets, tables and fireplaces. Wilderness visitors would be required to stay in these areas in order to lessen the impact elsewhere.

The federal Department of Transportation wants to push a trans-Sierra Nevada road across Minaret Summit near the Mammoth Lakes area. State and local residents keep resisting such a road.

Although authorization for the road still exists, funds for a 2.7-mile extension were deleted for this year. The road would bisect the John Muir and Minarets Wilderness areas.

Norman B. Livermore Jr., who heads the State Resources Agency, used unusually harsh language in a recent speech to criticize the department's environmental impact report on the proposed road.

He said the report is "the most inept, disorganized, biased and utterly troglodytic (the way cave dwellers lived) document I believe I have ever seen."

Livermore, who is Gov. Reagan's chief adviser on environment matters, continued, ". . . Whoever compiled and released this report should be ashamed of themselves."

A Forest Service supervisor, told that officials in a neighboring National Forest had withdrawn from the back country all wilderness rangers for the July 4 weekend because they did not want to pay overtime, slapped his forehead in disgust.

One national park, Sequoia-Kings Canyon, can be in the forefront of wilderness management while at another, Yosemite, admittedly little or nothing has been done about backcountry deterioration.

There was just barely enough wood around the granite-ribbed shores of Minaret Lake to keep the campfire going for a couple of hours. The talk was of society's ills, how to make government more responsive, the good life and poor marriages. One said, "You can trust anyone up here. You know if they walk this far there will be something in common. That is why you let it all hang out easily." The middle-aged pediatrician offered marijuana to his campfire companions. It seemed a sacrilege.

The wilderness is not used by an "elite," as is commonly thought by those who do not use it. The hardy Sierra Clubber is the vast exception, not the rule.

Bearded, long-hairs under 30, their girlfriends and dogs and middle to upper middle-class families are the rule.

A trip into the wilderness is now within the reach of anyone who does not have a physical disability.

Babies are lugged into the wilderness on their mothers' backs. Children as young as 3 hike in under their own power and many carry their own packs.

The technical revolution in clothing and equipment in recent years has cut the weight of backpacks and vastly increased the comfort of trips into the back country.

Freeze-dried foods, which are easy to carry and prepare, make it possible to dine almost sumptuously.

Pack frames are light, as are the jackets and sleeping bags which can weigh as little as two pounds, yet be warm at temperatures a few degrees above zero.

For this portion of the trip, we refer to a guidebook, the "High Sierra Hiking Guide to the Devils Postpile Area," published by Wilderness Press of Berkeley: "Fair campsites may be found around Shadow Lake, but there is no wood, and we would discourage camping here, to lessen human impact around the lake."

This July 4 weekend there are relatively few campers around Shadow Lake, the object of a pollution study by a Claremont College student. Around 70 campers are clustered around tiny Lake Ediza, a few miles farther up the trail and featured recently in the National Geographic magazine.

Parallel to the increasing recreational use by the public of the wilderness has been a growing effort by government administrators to manage its natural resources.

A Park Service official in Yosemite National Park said, "I can sum up our thinking in three words—managing for naturalness."

What the Park Service is doing in Yosemite is using prescribed burning ("we write prescriptions"), chain saws and axes to return valley meadows, the back country and the Mariposa Grove of giant Sequoia trees to what photographs showed them to look like in the 1890s.

Without wildfires, which existed in the park before man began to manage it, small trees and shrubbery have infringed on meadow areas and under the giant trees.

So slow-burning fires have been set by the Park Service to cut back on some of this undergrowth. Axes and chain saws have been used on white fir trees in the grove of Sequoias to restore a pre-1890 look.

INSECT DAMAGE

The Park Service no longer sprays trees for insect damage unless an epidemic is threatened. In Yosemite and Sequoia-Kings Canyon, the practice is to let lightning fires burn themselves out unless widespread damage is likely.

Yosemite Park Supt. Wayne Cone said, "The theory is that fire is a natural part of the ecosystem and that when man came he altered the natural environment. We are trying to re-create a natural environment."

Criticism of these management practices comes from those who fear additional air pollution.

"We could blow our whole program if we send up a cloud of smoke and it appears over Fresno," said one Park Service official.

Some fear the program may take the wrong course when those who originated it are transferred elsewhere and new personnel take over.

And at least one observer noted "the colossal conceit" it takes to presume to manage nature.

WILDLIFE THREAT

Aside from manipulating vegetation, such administrators fear effects of wilderness overcrowding on some forms of wildlife.

So they are proposing "zoological zones" be set aside in the High Sierra where the shy Sierra bighorn sheep can remain undisturbed by back-country hikers.

Game biologists believe sheep have been lost in two of the five herds in the higher elevations of the Sierra Nevada because of human intrusion. The count of the rare species is down from a maximum of 390 in 1948 to a present 215.

The limit on golden trout, the state fish, has been dropped from 10 to five because of increased fishing pressures caused by easier access to their only native spawning grounds. A zero limit is being considered.

Vern Burandt, a game warden who has spent 18 years patrolling the High Sierra, said, "Wildlife is starting to leave the John Muir Trail because of man's impact.

"In the past 12 years I have seen the Mt. Whitney trail go from a wilderness to a crap pile. They used to have pine martin, blue grouse and deer along the trails. Now, not any longer."

A high count of 2,000 hikers was observed along the Mt. Whitney trail one weekend and 327 were camped at one time beside Mirror Lake, the major stopping place for a weekend climb of the highest peak in the contiguous United States.

He was just a brief flash out of the corner of the eye. Then the tawny smudge halted and each regarded the other with surprise—the marmot and the man who had paused by Garnet Lake. The small furry creature did not give ground. Showing no fear, he advanced slowly from a distance of 15 feet. A feeling of momentary peril swept the hiker, then foolishness, then the realization that he was the alien in an environment where animals are often unafraid.

There are 53 million acres of federal lands which qualify as potential wilderness areas under provisions of the 1964 act. So far, with three years to run in the law, only 10.1 million acres have been set aside in the classification.

Most of these are Forest Service lands. The Park Service, which administers national parks, has lagged behind in its review although without formal classification, national parks are more "de facto" wilderness areas than those in national forests, which have a formal designation.

Grazing and mining are permitted on Forest Service wilderness lands.

This leads to some curious situations because of the looseness in federal mining laws.

In the heavily used Minarets Wilderness Area west of Mammoth Lakes, a minister has a mining claim at Minaret Mine and uses the site and old buildings as a summer camp for his church.

A group from a Southern California college uses an old cabin at another mining claim in the same wilderness area for recreational purposes.

Another group is seeking an access road to a mining claim in the Nydiver Lakes area which would pass right by Shadow Lake.

INTEREST CONFLICT

A Forest Service report on the wilderness area states, "The process of prospecting for minerals and developing claims often results in conflict with other wilderness values."

It took seven years to get the wilderness bill through Congress and conservationists had to compromise on the mining issue to secure its passage.

Rep. Wayne N. Aspinall (D-Colo.), chairman of the House Interior Committee, which hears all wilderness proposals, was instrumental in securing the mining provisions in the final bill.

The ranking minority member of that committee, Rep. John P. Saylor (R-Pa.), has introduced a bill, H.R. 6996, which would designate 12 areas on Forest Service lands as wilderness.

In proposing the legislation, Saylor noted that the Forest Service—by considering logging and other development proposals—would ruin the wilderness status of these lands.

The 14 proposals Mr. Nixon sent to Congress—which include the Sequoia-Kings Canyon area—were all in national parks, monuments or wildlife refuges—areas already protected from development.

Such conservationist organizations as the Wilderness Society and the Sierra Club are most active in pushing for new wilderness areas.

The best way to read an account of John Muir's ascent of Mt. Ritter 100 years ago is to dine on oxtail soup, beef stroganoff, chocolate pudding, cookies and a shot of brandy. Then curl up with a cigar in a warm sleeping bag snuggled between two rocks at the west end of Thousand Island Lake. At the 9,800-foot level of the lake, the glow of the setting sun lingers on the crenellated peak thought to be inaccessible until Muir made his solitary climb.

Wrote Muir: "After gaining a point about half-way to the top, I was brought to a dead stop with arms outspread, clinging close to the face of the rock, unable to move hand or foot either up or down. My doom appeared fixed. I must fall."

After mastering this temporary stroke of fear, Muir scrambled to the top and then discovered that the sun was setting. With only a crust of bread to eat all day, he had many miles of hiking in the night to return to his camp in a pine thicket where he slept without blankets in "the biting cold."

These instructions are now given to hikers along the Muir Trail in Sequoia and Kings Canyon National Parks. They state in capital letters:

"Recommend that all drinking water be treated with purification tablets or be boiled before use. (Boil 10 minutes)"

Park Supt. John S. McLaughlin said that tests of back-country lakes and streams had shown that the bacteria count from human wastes exceeded U.S. Public Health Service standards.

In the Inyo National Forest where the John Muir and Minarets Wilderness areas are located, the Forest Service has hired a hydrologist for the first time to test High Sierra water this summer for pollution.

In Yosemite National Park, the Park Service is so leery of the drinking water in the Merced River below the heavily used Little Yosemite area that it has closed its drinking facilities at the top of Nevada Falls.

WATER POLLUTION

Said Supt. Cone: "Because of the human wastes emptying in from the back country, we don't feel confident of the water source. The only way we could feel confident is to chlorinate the water."

Overcrowding has contributed to water pollution, according to the experts, in the following manner:

Because there is very little or no topsoil in the High Sierra and because warm temperatures exist for only about 1½ to 2 months, human and animal feces have little chance of decomposing.

More likely, they are liable to be washed undiluted into lakes which at the height of the hiking season have little or no outflow.

Water pollution is not the only evidence of overuse of certain wilderness areas. A Forest Service report on the John Muir Wilderness Area west of Bishop, states:

This intensive use is causing site deterioration—as is evidenced by vegetation being damaged or destroyed, increasing areas of bare ground and by the invasion of subclimax species near trails, lakes and streams.

SOLITUDE GONE

In many heavily used areas, most or all the dead wood has been burned for firewood. Live trees are often cut and attempts made to burn the green wood . . . The opportunities for camping solitude are diminishing and in many areas no longer exist during the peak-use periods . . .

During the summer, human habitation seems almost permanent because as soon as a camp is vacated by one party, it is often occupied by another. This level of occupancy is in conflict with the quality levels that offer the opportunities for solitude . . ."

When issuing the wilderness permit needed to enter the Desolation Wilderness area, the receptionist at the South Lake Tahoe Ranger Station cautioned:

"You better hold onto your backpack. We just had a guy come in here and report that his was stolen while he was sleeping by Eagle Lake."

At Yosemite, a park official said: "If you put a $60 Kelty pack or a $150 sleeping bag down you just might lose them. It is sad but true."

Wayne Merry, who runs the climbing school in Yosemite, is making an attempt to educate users of the back country. He is conducting six-day "minimum impact trips" into the wilderness this summer.

Said Merry: "It gets so bad that if you turn over a rock to hide the garbage, you find another camper has been there." So, on the trips all garbage will be hauled out, there will be no campfires and cross-country travel will cut down on trail use.

All of this would come as a shock to John Muir, should he now retrace his steps along the crest of the Sierra Nevada. He would be told by a friendly wilderness ranger:

"Bullfrog and Timberline Lakes are closed to all camping and grazing, in the Evolution Basin and at Kearsarge Lakes wood fires are prohibited and I am sorry to tell you sir, but you can only stay one night at Paradise Valley, Woods Creek, Rae Lakes, Kearsarge Lakes, Charlotte Lakes, Sixty Lake Basin, Junction Meadow and Bubbs Creek.

"Oh, and at these last named areas you have to camp 100 feet from the lakes and streams. Thank you and have a good trip in the wilderness."

The trail on the last day rises and falls along the east bank of the middle fork of the San Joaquin River. It passes through lush growths of larkspur, shooting star and

vivid-colored mountain wildflowers contrasting with the grey-green landscape. Across the canyon gouged out in the Ice Age and up the tributary hanging valleys, the spine of the Minarets stands out against the clear blue sky with incisor-like detail. It is a grand summation of a four-day hike. The woman should know there is nothing to fear.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER. 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.

The Bureau of Census estimates that by 1985 the total school enrollment will have risen from a current 58,900,000 to 76,900,000 with the greatest advance in numbers at the college level.

BAR SHOULD SUSPEND AND DISBAR ATTORNEY KUNSTLER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. WYMAN) is recognized for 10 minutes.

Mr. WYMAN. Mr. Speaker, today Attorney William Kunstler in nationwide radio comments called Gov. Nelson Rockefeller a murderer and commented that if he had a gun and been handy to Rockefeller, he might just use the whole load. Kunstler's frame of reference this time was the uprising in the State prison at Attica, N.Y., in which law enforcement officers were required to storm the prison to restore order. His remarks are either demented or at the very least willfully provocative and libelous.

Not too long ago, the same Kunstler incited the burning of a branch of the Bank of America in a small town in California. In between times his conduct, on the public record, in instance after instance has extended to encouraging violence, purveying hatred, and fomenting civil unrest throughout the Nation.

The practice of law in the United States is conditioned upon an oath required of every attorney to uphold the Constitution, to support the laws of the land, and to act and conduct himself as an officer of the court. That such a requirement exists is no accident. Rather, it exists to insure the continuing ability of the bar to eliminate from its ranks those who disgrace the profession or do not so conduct themselves as to merit the privilege of holding themselves out to the public to practice law for a professional fee.

No bar association worthy of the name can afford to continue in good standing, attorneys who conduct themselves such as William Kunstler has. If the organized bar of the United States, State and National, is to continue to merit public trust and confidence, it must rid itself forthwith of those within its midst who flagrantly and contemptuously break its rules of conduct and work to destroy rather than to uphold our constitutional system.

Attorney Kunstler's characterization of Governor Rockefeller as a "murderer" together with his other statements in the last 24 hours constitute extremist conduct, inciting to violence and are incompatible to membership of good standing of any bar association worthy of the name.

If Kunstler wishes to continue as minister of the militants, let him do so without portfolio. Constitutional freedom of speech for lawyers does not extend to the extremist conduct of such as Kunstler. Denial of accreditation as an attorney in good standing is manifestly in order for Kunstler's conduct disgracing the legal profession, subversive of the Constitution, and repeatedly and patently inciting and fomenting violence, civil unrest, and insurrection in America.

FORCED BUSING IS DESTROYING OUR SCHOOLS

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, yesterday, for the first time in memory, the people in my home community of Pinellas County, Fla., voted down a request for additional school millage. By a 3-to-2 margin, people who repeatedly in the past showed a willingness to pay extra taxes to give their children a quality education abruptly switched and turned down this year's millage request.

This happened in a community which takes great pride in its schools, which time after time has taxed itself to achieve one of the finest public school systems in the Nation.

What happened in Pinellas County, Fla., should concern all Americans—for if the people of this community can suddenly withdraw their support and confidence in the schools, then the same can happen anywhere in this great country.

Pinellas' school millage request was defeated because of one single overriding issue: massive forced busing of our youngsters, mandated by the courts without regard to the education, the rights or the needs of the children, and with little regard for their health and safety.

Forced busing is destroying some of the Nation's most outstanding public school systems in communities throughout America, and if the Congress is to save the neighborhood school system which helped make the country great, then it must act immediately.

To carry out the court's edicts, the Pinellas County School Board had to find additional funds to buy more buses to haul youngsters all over the county. Extra funds also were required to finance overdue capital improvements.

Aware of the community's overwhelming opposition to forced busing, school officials decided to separate the millage for buses from the other millage rather than see the entire package go down in defeat.

It did not work. A community that takes great pride in its young people and knows the value of education voted overwhelmingly against all of the requested millage. The vote on a millage levy to buy buses was 30,968 for and 45,900 against; on mills for capital improvements, the tally was 32,747 yes and 43,759 no.

The school millage election with forced busing as the issue divided the community. An unprecedented newspaper campaign was launched in support of the millage, while parents organized in opposition to forced busing embarked on a people-to-people campaign against the millage.

The wounds created in this bitter struggle will be a long time healing; it will take some time before the community recovers—but mostly, it is the children who will suffer.

What occurred in Pinellas County, Fla., need not have happened. What is happening in other cities in America because of forced busing can be prevented. Our neighborhood schools need not be destroyed. We can take the judges out of our schools and return America's classrooms to our children and their teachers.

The Congress can promptly adopt a constitutional amendment to preserve our neighborhood schools. My own proposed amendment, House Joint Resolution 600, simply states that—

> The right of students to attend the public school nearest their place of residency shall not be denied or abridged for reasons of race, color, national origin, religion, or sex.

Republicans, Democrats, liberals, conservatives, all can support this measure because it is fair, just, nondiscriminatory, and seeks to guarantee the right of all Americans to the best education possible.

My constitutional amendment, and others like it, are bottled up in committee. The people of America, through their elected Representatives in the Congress, have the right to be heard on this vital matter. I urge my fellow Congressmen to help accomplish this by signing discharge petition No. 6.

Our neighborhood school system, and the right of our children to the best possible education, are at stake.

THE WAGE-PRICE FREEZE AND FEDERAL EMPLOYEES

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, as a member of the Republican Party I do not like to oppose my Republican President on legislative matters. However, I would not be true to myself or my constituents if I did not rely on my own judgment rather than that of the President.

During the 91st Congress the President opposed legislation giving him discretionary authority to freeze prices, interest, rent, wages, and salaries. I voted for it. Although he opposed enactment of this legislation, the President recently used the authority it gave him to freeze prices and wages.

On the occasion of that vote I respected the President's reservations about the possible ill effects of imposing a wage-price freeze, but I felt compelled to vote in the affirmative to assure that the legal

mechanism was available in the event that economic conditions required the imposition of such a wage-price freeze. I am pleased the President used the authority as he did in an effort to stem the rising tide of inflation.

I make these preliminary remarks, Mr. Speaker, because today I am again opposing the course of action proposed by the President with regard to the postponement of the Federal employees pay raise. I do so because I am convinced that to do otherwise would be to condone an inequity. I have, therefore, cosponsored the resolution of disapproval of the President's plan to freeze the pay of Federal workers and military personnel for 6 months rather than the 3-month freeze imposed on non-Federal workers.

Let us look at the history of Federal pay comparability. The Congress of the United States promised Federal employees comparability in 1962, but it was an empty promise until last year because we were unable to respond to the cost-of-living increases in sufficient time to get the benefit to the employees when they deserved them.

During the last Congress, however, we fulfilled the pledge made in 1962 to afford full comparability to Federal employees. Under the Federal Pay Comparability Act of 1970, Congress created, and the President approved, legislation to abolish those yearly pay fights by creating a new permanent system for annual adjustments of Federal civilian and military salaries. The first comparability adjustment was scheduled for January of 1972.

As part of his new economic program announced on August 15, the President has ordered that this first scheduled pay adjustment be deferred until July 1, 1972. Yet, on September 9 when the Chief Executive addressed a joint session, he announced that the wage-price freeze will expire on November 15 of this year and will not be renewed.

Just looking at the calendar dates makes it eminently clear, I believe, that Federal employees and servicemen are once again being asked to bear the brunt of the inflationary burden—in fact, they are being asked to bear a double burden. Unless this body acts within 30 days on the resolution which I and several of my colleagues are introducing today, the wage-price freeze for Government employees will last, not the 90 days that all other Americans are being asked to accept, but rather the freeze for Federal employees would last more than 290 days. This, Mr. Speaker, is blatantly discriminatory. Across-the-board wage freezes for all Americans are one thing. Selective freezes for certain segments of the population are quite another.

As a member of the Post Office and Civil Service Committee, I have frequently been irritated when administration witnesses have opposed improvements in benefits for Federal workers on the basis that we cannot afford it because the money comes from tax sources. We seem to find money for a vast variety of Federal programs of highly questionable value but Government employees are always expected to make the sacrifice in the interest of Federal fiscal integrity. Fiscal restraint can be exercised in other aspects of Federal spending rather than in salaries of Federal employees. For example, why do we not suspend the printing and publication of elaborate, four-color booklets and brochures issued by numerous Government agencies?

Under the law, the President's alternative pay plan deferring the adjustments for 6 months will take effect unless either body vetoes that plan within 30 days. I am hopeful that the Post Office and Civil Service Committee will act with dispatch on this resolution and I urge my colleagues to give it their favorable consideration when it comes before this body for a vote.

THE SHARPSTOWN FOLLIES—XXXIV

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 believe that Assistant Attorney General Wilson should resign because he was closely involved with the Sharp gang, knew of its illicit deals, and took part in deals that were questionable and illicit. Wilson maintains that he is innocent and ignorant, but I do not believe that any man who was as close to Sharp's inner sanctum as Wilson was, can plead either innocence or ignorance.

Consider the matter of Wilson's $30,000 loan from Sharpstown State Bank in August 1970.

At the time that loan was made, Wilson says that he knew nothing about an SEC investigation involving Sharp and his pals.

But the truth is that during the summer of that same year Wilson met with Sharp's lieutenant, Joe Novotny, who wanted to talk about an SEC investigation into RIC Industries. Those who are well versed in Sharpstown follies will remember that RIC was bought by Sharp's pals through a loan from Sharp's bank in Dallas, and that the loan had to be moved to another bank because examiners criticized it. To make the loan bankable, Sharp's National Bankers Life Insurance Company had to issue a guarantee on it.

Now obviously if the SEC was investigating a company that Wilson knew to be in the Sharp empire, and a representative of that company came up to Wilson to ask about it, Wilson would know that there was an investigation. Yet he says he knew nothing.

Wilson even assured Novotny that it wasn't too serious, for Novotny went back to Dallas reassuring his friends. But within a matter of months, RIC was under a consent decree from SEC.

Just 3 days before that decree was entered, Wilson got his $30,000 loan from Frank Sharp's bank down in Houston.

He not only knew that there was an investigation into Sharp's empire at the time he took the loan, he knew that Sharp was in for bad trouble, unless a miracle happened.

And so a few months later, Wilson's pal Sharp ended up before a Federal judge.

The Department of Justice delivered a miracle for good old Frank Sharp, in the form of a 3-year suspended sentence, a little fine, and complete immunity. Never did Wilson's friend have to face a grand jury, and never will he.

Wilson lied when he said that he knew nothing of any SEC investigation into Sharp's enterprises at the time he took a $30,000 loan from Sharp. He knew about it, he had checked with the SEC about it, and assured his pals that everything would be all right. And sure enough, it was, thanks to the incredible, deliberate bungling of Wilson's very own Department of Justice.

JIM McFARLAND OF GENERAL MILLS: THE ROAD TO THE TOP

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, on Tuesday the Wall Street Journal printed the first of a series of articles pointing out that there are many routes to the top in American corporations today. The subject of this first article was James Patterson McFarland, chairman and chief executive officer of Minneapolis-based General Mills.

General Mills and Jim McFarland have long made major contributions to the healthy and productive business climate in our city, our State, and our Nation. We are proud that business has flourished in the Twin Cities and that the managerial skills contributed by the Jim McFarlands of our State have enabled us to develop and utilize creatively the talents of our citizenry.

The American success story is bottomed on a combination of labor and management skills. Jim McFarland and other Minnesota people have combined to develop a respected and successful American corporation—a corporation that, in addition to its business success, is constructively involved in community affairs.

Minnesotans are proud of the national attention focused on one of their most distinguished citizens. Jim McFarland merits this recognition.

The article follows:

THE ROAD TO THE TOP: JIM MCFARLAND TAKES THE TRADITIONAL PATH, A LONG, ARDUOUS CLIMB

(By Frederick C. Klein)

GOLDEN VALLEY, MINN.—In the summer of 1934, 22-year-old James Patterson McFarland of Watertown, S.D., armed with a brand new master's degree in business from Dartmouth, went to work as an accountant for General Mills Inc. here at $100 a month. He was given a two-day "indoctrination period," then hustled off to Wichita to help check in the wheat harvest.

"When I got to Wichita I couldn't find anyone to tell me what to do, so I had to figure things out for myself," he recalls. "Once we got started, we worked from sunup to sundown, weekends included, in some of the hottest weather imaginable. I lived upstairs in an old rooming house near the loading docks, and the nights weren't any better than the days. There were moments when I doubted I would make it."

Jim McFarland survived that stint, and more. Thirty-three years and 13 positions later, he was named president of General

Mills, the only company he has ever worked for. Two years after that, in 1969, he became chief executive officer. Today, as chairman and chief executive, he commands a force of 30,000 employes in a world-wide enterprise with operations in the clothing, jewelry, toys and games, chemicals and restaurant industries as well as in the food business with which it is most closely identified. His salary and bonuses last year came to more than $250,000.

In brief, alert, 5-foot-5-inch Jim McFarland is a classic hero of the kind of story American business likes to tell about itself: The earnest, hard-working individual who gets to the top of the corporate heap by sheer ability without any special advantages of birth or marriage or wealth.

"A RARE KNACK"

Past and present associates of the executive say that he fills this role quite nicely. At General Mills' low-slung, steel and glass suburban headquarters, he is described as the man who has done well in every job he has been given. As such, he is closely identified with some of the key moves in the process that first changed the company from a flour milling concern to a maker of a broad range of consumer food products and then to its present diversified form.

In the two fiscal years since he took over as chief executive, General Mills' sales have risen to $1.1 billion from $885 million, and profits have climbed to nearly $44 million from $37.5 million. He talks of hitting the $2 billion sales mark by fiscal 1976.

Colleagues say that Jim McFarland is thorough, persuasive and sensitive to others. Says one: "He has great intellectual stamina. A lot of executives think their job is done once a decision has been made, but he sticks with a problem until he has found the best way to carry out what's been decided."

Says another: "Jim can disagree with you without putting you down. That's a rare knack."

His dedication to his company and career have been almost total. At age 59, he still puts in a six-day, 60-hour-plus week. Twenty-five years ago, he even stopped smoking for business reasons. "I was sales manager in Great Falls, Mont., and I had to make an important pitch to a group of wholesalers in Casper, Wyo.," he says. "All the way down on the train I smoked cigarets. When I got there, I felt sluggish and as a result I made a poor presentation. I like cigarets, but I decided I'd be a better salesman without them."

KEEPING A LOW PROFILE

But that's just part of the story, of course. By all accounts, Jim McFarland also has been lucky; jobs have opened for him when he was ready to take them, and he was able to attract powerful "sponsors" within the company at crucial points in his rise.

In addition, he has unfailingly maintained a "low profile" in a company that appreciates such a posture. Modesty and a conservative demeanor are much prized at General Mills, whose officials will tell you that people haven't been hired or promoted for lack of those traits and acquisition talks have been broken off because executives of the firm in question didn't appear to measure up.

Those attributes helped Mr. McFarland weather a large-scale shakeup in the company's executive ranks in the early 1960s and, several years later, beat off a challenge for the top job by a younger, more glamorous rival.

It's not unusual that such an exacting variety of skills and attitudes are required to climb to the top of a large corporation owned by others, students of business say. "It goes without saying that ability is essential, but there's a lot more to it than that," says Harry Levinson, psychologist and author on business leadership who is currently a visiting professor at Harvard School of Business. "A man must avoid being tagged as a specialist. He can't make enemies or appear to be too ambitious. And he can't pull any shenanigans—at least, not where anyone can see him."

Working up through the ranks in a single company still is the main road to the corporate summit, but it is being traveled by fewer individuals. According to Eugene Jennings, professor of management at the Michigan State University School of Business, about two-thirds of those who headed public concerns around 1950 made it that way, but now the figure is slightly less than half and declining. This is partly because college graduates recently haven't been willing to start low and because executive mobility at the middle levels accelerated sharply in the past decade, he says.

It's also because "more companies are realizing that what a man learns near the bottom won't necessarily help him at the top, and it might hurt," says Prof. Jennings. "For instance, at the bottom you're taught to work hard, but at the top you must work 'bright'."

REJECTING GE

These trends are as apparent at General Mills as elsewhere. The company's president and operating chief since 1969 is James A. Summer, a 48-year-old former Air Force major who joined it in 1960 as a planning executive. Younger men in the company regard Mr. McFarland's lengthy and varied career with some awe. "Can you imagine? The guy spent 10 years selling flour in Montana," says one young MBA.

But when Jim McFarland, a lawyer's son, left Dartmouth in the depression year of 1934, employment opportunities weren't abundant. Even though he had an MBA, a rare commodity at the time, he received just two job offers—from General Mills and General Electric Co. GE offered him $125 a month to start to General Mills' $100, but he still picked the milling firm, which then had about 7,000 employes and annual sales of $143 million.

"General Mills was in the Midwest, and I thought I'd like to be near my family," he says. "Then, too, they seemed people-oriented and I've always been that way myself."

His good luck began as soon as he went to work for the Minneapolis concern. The personnel man who hired him was Harry A. Bullis, who later became president and chairman of the company. They discovered that they shared a belief in "positive thinking," a school which holds that an affirmative outlook can help overcome obstacles. Mr. Bullis was chairman in the 1950s when Mr. McFarland's rise began in earnest.

Young Jim McFarland's early career was hardly meteoric. After five months of grain accounting in Wichita, he was dispatched to the company's Larrowe Feeds division in Detroit to perform a similar job. About a year later, he was transferred to another accounting post at a company distribution center in Great Falls, Mont.

At Great Falls, he decided he didn't want to be an accountant any more, so he asked for and got an assignment in sales. For the next four years, he sold baker's flour and other products in a vast territory that included Montana, North and South Dakota and Wyoming.

The switch to sales was perhaps fortuitous. In a new book, "Routes to the Executive Suite," Prof. Jennings of Michigan State says that among the largest corporations "over 30% of the chief executive officers have spent five years or more in marketing and sales at some time in their careers. . . . Marketing is definitely a route to the top, as is manufacturing." In contrast, he writes, "personal and industrial relations are not routes to the top." In the middle '60s, he says, many financial men were tapped, and in the late '60s "men who had experience in the international counterpart of the corporation emerged in great numbers at the top."

In 1942, Jim McFarland enlisted in the Army Air Corps, emerging four years later as a first lieutenant. He returned to the company as sales manager for the Great Falls-based region—his first executive job. He remained in that position for six years before being brought to General Mills' Minneapolis headquarters as advertising manager for home-use flour. He got that assignment, he says, "because they wanted someone in advertising who had experience in the field. I guess they were afraid that our advertising was getting too removed from the people we were selling to."

Mr. McFarland managed to distinguish himself in all his early posts. In Wichita, he wrote an accounting manual so his successors in the seasonal job wouldn't be left to their own devices as he was. At the feed unit in Detroit, he devised a compartmentalized envelope that would contain all of the various papers that accompanied feed shipments. Previously, each paper had been forwarded separately and it frequently was troublesome to collect them at the other end.

At Great Falls, his grocery products sales force annually ranged at or near the top of the company on a per-man basis. This was no mean feat; his predecessors had had difficulty selling General Mills' "big-city" flours and packaged foods to the region's self-sufficient housewives. Among other things, the accomplishment entailed his persuading the home office to make a special kind of flour that would produce satisfactory bread even if the local farm women ignored it for long periods to do other chores.

As advertising manager for Gold Medal brand flour, he is credited with helping to introduce the smaller containers that maintained profits in the face of a long-term sales slump.

"FIRING PEOPLE IS TOUGH"

By 1955, 21 years after he joined General Mills, 43-year-old Jim McFarland was earning just $18,900 a year and there were dozens of men between him and General Mills' upper executive levels. Still, he was patient ("I never was one of those fellows who felt he had to be promoted every year or quit") and prepared for better things.

"As a sales manager, I'd learned that you couldn't just tell someone to do something and expect it to get done—you had to show your people what was in it for them," he says. "I'd also learned that fairness in dealing with people didn't necessarily mean kindness. Sometimes, you have to let a man go to be fair to your other people. Firing people was tough for me then, and it still is, but I found out that it's usually the best thing for all concerned."

Mr. McFarland got his chance to put his experience to work in 1955, when ill health forced the dynamic Walter Barry to step down as head of General Mills' vast consumer-foods operations. Under Mr. Barry, who was the company's dominant executive of the 1940s and 1950s, consumer foods such as Wheaties, Cheerios and Betty Crocker brand cake and dessert mixes emerged as General Mills' major source of sales and profits. He had run a virtual one-man show in his specialty, and his leaving created a considerable void.

Jim McFarland was one of several executives who were given a shot at filling Mr. Barry's shoes, and he succeeded. In less than three years he earned three promotions. In mid-1957, he was named general manager for consumer foods and a corporate vice president, and his salary was hiked to $40,000 a year.

"It was a great relief that someone could take over for Walter Barry. That was when he (Mr. McFarland), made a believer out of a lot of us," says Charles H. Bell, company president at the time. Mr. Bell is the son of James Ford Bell, who engineered the alliance of regional millers that created General Mills in 1928. Charles Bell was chairman of

the company when Mr. McFarland was named president. Mr. Bell and members of his family own some 500,000 of General Mills' 19.9 million common shares—the largest single block.

ENTER GENERAL RAWLINGS

Grocery products continued to prosper under Mr. McFarland, but other parts of General Mills fell on hard times in the middle and late '50s. The company was suffering heavily from losses in its animal-feed and commercial-flour milling operations. In addition, its 1940s ventures in electronics research and the manufacture of electric appliances under the Betty Crocker label had come a-cropper.

Getting rid of those businesses was no easy matter. A sizable number of long-term commitments were involved. Also, each operation had the backing of influential executives who firmly believed that the units would right themselves in time.

To remedy this situation, Charley Bell in 1959 hired Edwin Rawlings, a four-star Air Force general who, as head of that service's world-wide Materials Command, had established a reputation as a formidable administrator. The cool Gen. Rawlings spent two years learning about the company with the title of financial vice president. In 1961, when he was elevated to tne presidency, he was ready to move.

In short order, he either sold or liquidated the feeds, research and appliance units and closed more than half of the company's milling capacity, its most venerable operation. Then he launched an acquisition program based around General Mills' strong marketing position with housewives and children. This eventually brought the company into toys (Kenner and Lionel) games (Parker Bros.) and snack foods (Morton Foods, Tom Huston Peanuts and Cherry-Levis Farms).

"Everybody knew what had to be done, but it took an outsider to do it," says one longtime General Mills hand. "We had become soft in terms of objectivity. Personal relations between executives stood in the way of progress."

Gen. Rawlings also gave a severe shake to the company's executive ranks. Among others things, he instituted frequent "management operation reviews," to which the entire executive force was summoned to report and face the questions of their peers. These sessions could get rough.

"One of our younger men was holding forth on a new product his division had introduced and an older fellow broke in to ask why we were wasting so much time on such an insignificant item," recalls one manager. "The young guy looked at him hard and told him that the 'insignificant item' already was turning out as much profit as the older guy's whole division."

AND ENTER "BO" POLK

In the first three years of his presidency, Gen. Rawlings appointed more than a score of new vice presidents and division and plant managers. Many of them were young, hard-driving men who were new to the company. Foremost among them was Louis F. (Bo) Polk Jr., an engineer and Harvard MBA who came in 1961 at age 31. At various times in the next few years, Bo Polk oversaw the installation of an internal computer system, headed the company's acquisition efforts and was its top financial man. He was tagged by some as General Mills' next head.

Some "old hands" got lost in the Rawlings shuffle, but not Jim McFarland. While the General and his new men were getting rid of old operations and acquiring new ones, someone had to run the businesses. He got the nod.

"Ed Rawlings wasn't easy to get to know—he isn't much for small talk—but after awhile he and I began to get on well," says Mr. McFarland. "We are both small-town boys and we both like to hunt and fish. Besides, I knew the business and the people, and he needed that."

Thus, the battle for succession to the General Mills' presidency was joined between Jim McFarland and Bo Polk, and it would be hard to imagine two contenders who are less alike. Mr. McFarland is small, dresses conservatively and likes to talk about things like "corporate responsibility." Bo Polk is tall, colloquial and casual. These days, he wears his hair longish. When he sits down, he immediately seeks out a place to prop his feet. His goods looks and "whiz-kid" label made him the subject of a good deal of publicity, which didn't endear him to some of his colleagues.

In addition, Bo Polk wanted General Mills to become a highly aggressive "growth" company, constantly acquiring new businesses and spinning-off old ones. This was at variance with the operations-oriented philosophy of most of the company's officers and directors.

"Ed Rawlings leaned to Polk, but Charley Bell and just about all the other senior men wanted Jim," says a director. "When it came down to it, it was no contest."

Says Mr. Bell: "We on the board had decided to make the most of what we had invested in new businesses. We felt that Jim's stability was something that was best for the company. We believed that he'd keep things in balance. He wasn't a wheeling, dealing type who might go off on a wild tangent."

THE YOUNG TURKS LEAVE

In late 1967, Jim McFarland was elected to be General Mills' president and operating chief. The next year, Bo Polk left the company to become president of MGM, the filmmaker.

When Bo Polk left General Mills several other young executives also quit, believing that the company would lose its "momentum." Some stayed, however, and say that they have been pleasantly surprised with Mr. McFarland in this respect. The pace of General Mills' acquisitions has slowed under his leadership, but he still has taken the company into several new fields, including clothing (the 1969 purchase of David Crystal Inc., a maker of sportswear) and restaurants (the 1970 purchase of Red Lobster Inns, which specialize in seafood). He also has accelerated the expansion of the company's Bontrae Foods unit, which produces meat-like products from spun soybean derivatives.

As chief executive, Mr. McFarland has been criticized for spending too much time on day-to-day problems and not enough on long-range planning. He admits that "stepping back and taking the long view" was something of a problem after more than 30 years in operating posts, but he thinks he does this adequately now.

Part of the company's planning load has fallen on President Summer, despite his designation as operating chief. "Jim and I cross over quite a bit," says the crisp West Point graduate. "Our titles are mainly traditional."

HOW HE OPERATES

Even through he rose through General Mills' bureaucracy, Mr. McFarland runs his office in an informal manner. When he is in Minneapolis, his workday usually starts at 7 or 7:30 a.m. and ends at about 5:30 p.m. For the first hour or so, his office is open without appointment to any executive who has something to discuss. Things are on a first-name basis; if an employe doesn't call him "Jim," the boss asks him to. First names "help create a team atmosphere," he explains.

Mr. McFarland has continued the management review sessions begun by Gen. Rawlings, but he holds them less frequently and they are less elaborate. Still, he is a stickler for getting information accurately and on time. Each division submits monthly profit-and-loss statements to him and continually updates its one-and-five-year projections.

The executive also is a great believer in setting individual work goals. At the start of each month he types up a list of four or five things he hopes to accomplish in the next 30 days, and at the end of the month he notes whether he did them. All other top executives of the corporation are required to do likewise and inform him of the results. "At the executive level, it's easy to be busy all day and not accomplish anything," he says. "A lot of this can be avoided by setting objectives beforehand."

In dealing with subordinates, he is free with both responsibility and praise. "What's your opinion on this? You know how highly we respect your opinions," he tells a company officer reporting to him by phone on a possible acquisition.

At the same time, he expects results. "If you show you can do your job, he'll let you do it without looking over your shoulder," says E. Robert Kinney, one of General Mills' three executive vice presidents, who came to the company in 1968 as head of the acquired Gorton Corp., a maker of frozen seafood products. "He doesn't expect you to be perfect, but he hates surprises. You'd better not keep any bad news from him."

A CENSOR FOR "LAUGH-IN"

In addition to running the company, Mr. McFarland has some important external tasks. For one thing, he is chief guardian of General Mills' public image. As such, he travels to New York each year to discuss television programming with network officials; much of General Mills' $56 million annual spending for advertising goes to TV.

"We like to make sure that the programs we are associated with are in good taste," he says. "For instance, we thought that the humor on the original Laugh-In program was too risque, so we asked NBC to modify it. I think we and others had an impact on that show and made it better family-type entertainment."

For another, he has spent a good deal of time in Washington of late, seeking to counter charges that ready-to-eat breakfast cereals aren't nutritious enough and are too expensive. In the 1970 controversy over nutrition, he emerged as a leading spokesman for his industry. By all accounts, he was effective in this role; after holding hearings, Congress passed no legislation directed against the nation's cereal makers.

Appearing before legislative bodies isn't a task he relishes. "It irks me to have to defend our business, which has been so conspicuously good for everyone who has come into contact with it," he declares. There are, of course, some people who dispute his view of the industry.

Mr. McFarland earns a large salary now and is financially well-set for the future, when he stands to collect annual retirement income of upwards of $125,000. Nevertheless, he and his wife, Shirley, don't live lavishly and have no plans to.

The couple have two children: Jeff, 23, a Dartmouth graduate who works for a New York movie booking agency, and Mrs. Jill Wilburn, a 26-year-old mother of one whose husband is an Air Force captain. Since 1961, the McFarlands have lived in a colonial ranch home in Edina, Minn., a Minneapolis suburb, which is spacious and costly but far from the most showy home in the neighborhood.

Mrs. McFarland does the cooking when the couple eat at home, and they have no full-time domestic help. Mr. McFarland drives to work himself in a late-model Cadillac.

The executive won't reveal his net worth, claiming that "it doesn't really amount to all that much." He says that his main holdings are his home, which he values at about $100,000, and about 11,000 shares of General Mills common stock that he acquired through company stock-option and purchase plans.

"It's only in the last few years that I've

made any real money, you know," he says. "We got used to living simply and we've just continued to do so. I never went out after money very seriously, anyway. We like to go first-class, of course, but salary has been important to me mainly as an indicator of how I was doing in the company."

The mandatory retirement age for executives at General Mills is 65, but Mr. McFarland says he has given little thought to this. "When you start thinking a lot about retirement, you'd better do it," he says.

"If I did retire, I'd probably just go into some other business," he goes on. "I'd open a hamburger stand if it came to that. Where else could I have as much fun as I've had?"

DISCHARGE PETITION ON HOUSE JOINT RESOLUTION 651 MERITS SUPPORT

The SPEAKER. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON of Tennessee. Mr. Speaker, last week, our colleague from Georgia (Mr. THOMPSON) filed a discharge petition on House Joint Resolution 651, which would amend the Constitution relative to freedom from forced assignment to schools or jobs because of race, creed, or color.

I believe I was either the sixth or seventh Member to sign this petition, which needs 218 signatures if this legislation is to be discharged from committee.

With the opening of school this fall, we find many school districts in chaos because of the courts' inflexible stand in regard to integration and the necessity of cross-town busing, regardless of adverse social and economic impact on parent, child and community.

This proposed constitutional amendment is designed to end this forced busing, but is not intended to restore segregated school systems or maintain the vestiges of segregation where it remains. It simply seeks to recognize the fact that busing to achieve racial balance is uneconomical, unfair to parent and child alike, and unwanted.

We can, must, and will have quality-integrated public school education in this country, but busing is the most disruptive and least desirable method of achieving it. Next week, I will introduce legislation which will, if adopted, provide a more reasonable and rational means of providing quality-integrated education for all our children—not just those in the affluent suburbs or those whose parents are in a position to send them to private schools—but all children. This legislation will be so designed to meet the current requirements of the Constitution.

The discharge petition filed by the gentleman from Georgia merits support. His proposed amendment deserves nothing less than the opportunity to be at least debated by this body. In the meantime, give us an opportunity to make that decision through support of the discharge petition.

THE CHILDREN OF ISRAEL ARE ALIVE AND WELL AND LIVING IN THE PROMISED LAND

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I should like to provide our colleagues with some of my observations on Israel's security. During the congressional recess, I spent 3 weeks in that country and had an opportunity to view it not only from the biblical "Dan to Beer Sheba," but as a supporter of that brave country from the Golan Heights to Sharm el-Sheikh and the Suez Canal. Israel is a country of 3 million people surrounded by six Arab nations of 100 million people all bent on its destruction. Like many others in our country, I have worried from day to day about Israel's survival. So far the Israelis have survived three assaults waged against it by the Arab nations: in 1948 the war of liberation, in 1956 the Sinai campaign, and in 1967 the 6-day war.

Between 1956 and 1967 the friends of Israel saw the many terrorist attacks on Israel citizens, including the shelling and the use of handgrenades in theaters, supermarkets, and bus stations, and we worried about her survival. After the 6-day war, we saw the Arab States refuse to sit down at a table and make peace with Israel and instead pursue a war of attrition. We worried about how long this state of war could go on in which Israel was being bombarded and threatened by the Arab countries with much greater manpower and with arms supplied by the Soviet Union. And now with the cease-fire we worry about how long this state of relative peace can last.

I discussed Israel's current security problems with officers in its defense and foreign ministries. They made the following points: Prior to the 6-day war in 1967 the state of affairs between Arab States and Israel rested on the armistice agreement signed in 1956 and the Israelis were subject to near daily attacks across her borders. There was no avenue of travel between Israel and its Arab neighbors. The old walled city of Jerusalem was barred to Jews and Christians residing in Israel. No commercial transactions took place between Israel and the Arab States even though technically the countries were in a period of armistice. In contrast to that period of armistice and the current legal state of war which the Arab States insist exists between them and Israel, the following situation prevails: The entire city of Jerusalem is united and people of all faiths—Jews, Christians, Moslems—from every country come to Jerusalem to walk and pray in their respective holy places. This year alone more than 100,000 Arabs coming from numerous countries, including the very Arab States maintaining the state of war, have visited Israel and Jerusalem.

Under Israeli rule the West Bank has daily communication and travel with Jordan on the East Bank across 2 bridges of which the Allenby Bridge is the most famous. Israeli exports to the Arab States have now reached an annual level of $100 million. Arab students living in Israel formerly unable to attend Arab universities outside of Israel now do so. In fact I visited the city of El Quantara on the banks of the Suez Canal where students cross over from Israel into Egypt to attend the Cairo University.

Terrorism by Arab guerrillas has ceased and rarely do they infiltrate across the Jordan or the Sinai where as formerly these had been regular occurrences.

The paradox is that the former state of armistice was in fact a state of war and the current state of war is in fact an armistice.

My feeling as I left Israel could be summed up in this way: "The children of Israel are alive and well and living in the Promised Land."

INTRODUCTION OF FISHERIES LEGISLATION

(Mr. BEGICH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BEGICH. Mr. Speaker, over the next few days, I will be introducing a group of bills intended to provide essential assistance to the American fishing industry. In doing so, I join a growing number of my colleagues in Congress who recognize the critical needs in this area.

The fishing industry, bearing one of our Nation's strongest heritages, is in the midst of a decline which is being felt in every fisheries area of the country. At a time when it should be booming, and at a time when the world is seeking new sources of food, American fisheries are failing to move forward economically.

The decline is curious in that the industrywide totals are somewhat misleading in disclosing the problem. In spite of increased volumes of fish landed, higher value of yearly catches, and a substantially higher demand for fish products, the American fishing industry is simply not expanding at nearly the rate of expansion of the world's fisheries industry.

Even more disheartening is that whatever gains are made by the American fishing industry as a whole, few of the gains are being felt by the individual fisherman, his family or his community. A case in point is Alaska, long one of the U.S. fisheries leaders. In 1970, when the total wholesale value of fish caught in Alaska increased to $214.6 million, the per capita earnings of each fisherman was only $4,475. This return to the individual fisherman is distressingly representative of the failure of the industry to provide its workers with the compensation their labor should demand.

The legislation I will introduce was chosen to address this and a number of the other central problems facing our commercial fisheries. In addition, these bills reflect my best judgment of the provisions which can most appropriately solve the special problems of the Alaska fisheries industry, the individual Alaskan fisherman, and his community.

So that all my colleagues can better understand some of the problems of the Alaska fisheries industry, I would like to share with them what I consider to be an excellent summary of its economic potential and problems. It was prepared only a few months ago by the Federal Field Committee for Development Planning in Alaska as a part of a much larger work entitled, "Strategies for Economic Development in Alaska":

ALASKA FISHERIES

DESCRIPTION

As an economic activity in Alaska, fisheries are second only to petroleum and in the foreseeable future should continue to provide relatively high levels of employment for both Alaskans and nonresidents and a source of substantial revenues to the state. Unlike mineral and petroleum resources which are nonrenewable, fisheries are renewable resources, and as such, they are managed on a biological sustained yield basis. This management responsibility rests with the Alaska Department of Fish and Game within the inland waters of the state and the three-mile territorial sea. That fisheries are also a politically potent force in Alaska is evidenced by the fact that in an otherwise general Constitution, a specific prohibition against "exclusive right of fisheries" was adopted and that the first ordinance voted upon by the people of Alaska abolished the use of fish traps.

The commercial fishing industries of Alaska continue to increase in total dollar value each year, but are diminishing in importance relative to other activities and other resource development. The financial returns, individually, to many of those Alaskans who participate in the harvesting and processing of the fisheries are minimal, but lacking other employment opportunities in Alaska as an alternative, fisheries—despite seasonability, uncertainty, and economic inefficiency—will continue as a source of employment and some income for many Alaskans.

For several years Alaska has been the nation's top state in terms of the annual value of fish landings. Kodiak is the second most important port in the entire nation in value paid to fishermen for catches. Alaska commercial fisheries are concentrated in high value stocks which include the following major elements: salmon, halibut, shellfish, herring, and marine mammals.

PROBLEMS

Alaska has about 20,000 fishermen taking part in its fisheries, with a wholesale value of $214.6 million in 1970 and $189.5 million value to the fishermen. This results in a per capita income of $4,475 from fishing. One of the difficulties in increasing this per capita return is that fisheries are a common property resource open to entry by all, resident and nonresident, U.S. citizens and foreign nationals. U.S. nationals are prohibited from high-seas salmon fishing, while treaty restrictions are the only limitation on foreign harvesting of Alaska fisheries. Another problem is that managing the fisheries on a sustained-yield basis has led to reductions in seasons already short by the nature of fish runs, as well as gear limitations as means of limiting the taking of fish. This makes entry more attractive for the avocational fisherman since he can compete more equally with the professional under these restrictions.

The net result is a large number of nonresident and/or part-time fishermen, many of whom do not spend their returns from fishing, even in part, in Alaska. Thus the total value of fishing to fishermen overstates the importance of fisheries in the state's economy.

Nearly one-half of the employment accounted for under manufacturing is in fish processing. The fifty salmon canneries in Alaska are owned primarily by out-of-state interests and their seasonal labor force is recruited primarily in Washington, Oregon, and California. The 5 shellfish canneries and 25 freezer facilities tend to employ local residents to a much greater degree than the salmon canneries.

Fisheries is a labor-intensive industry, although capital remains a significant factor of production. For a capital-poor state such as Alaska, labor-intensive endeavors return within the state a higher proportion of final product value. As such, much of the return from the value added to the product goes to labor; and growth in fish processing induces growth in industries supporting it.

The lack of local capital has somewhat inhibited the pace of the shift from canning to freezing as the major method of fish processing. This lack has also deterred the growth of locally owned cooperatives.

The National Marine Fisheries Service sees three major problems in sustaining the well being of Alaska's fisheries: insufficient biological and marketing knowledge to manage the resources; insufficient protection from foreign fishing fleets; and insufficient understanding of the effects of pollutants on living marine resources. All three of these are areas requiring major policy and program efforts to resolve the problem.

POTENTIAL

Fisheries are a renewable but not inexhaustible resource. They must be sustained in production and not overharvested. Basically the resource base of Alaska fisheries is in a healthy biological condition. The present harvest constitutes about 10 percent of the estimated sustainable annual harvest of *all* fisheries resources. However, high value stocks are being exploited close to their limits while many demersal species are not utilized at all by Alaskan fishermen. There is no foreseeable change in this pattern.

Trends suggested for the fisheries to 1980 under present legal and management conditions are: (1) total average production will increase 37 percent; (2) participating fishermen will increase 42 percent; (3) average per capita take will decrease 6 percent; and (4) average per capita receipts will increase 30 percent measured in constant dollars.

Increasing production above the projected level will require utilization of lower-value fish stocks and more efficient management of the high-value stocks. This will require a major effort to control domestic and international fisheries and to develop markets for the low-value stocks.

Increasing income of fishermen will require restrictions on entry to a fishery to the level at which it can provide an adequate annual wage for participants.

This summary should provide a good background for understanding the economic problems and potential of the Alaskan fisheries. An additional problem which is not mentioned in this summary, but which is of growing concern to Alaskan fishermen, is the increasing amount of fishing activity off Alaska by foreign fishing fleets. In 1970 and 1971, this activity has begun to seriously threaten the U.S. fisheries resources in Alaska, and new measures are certainly warranted. More will be said on this later, as the legislation I propose is introduced.

A final problem for mention here was only hinted at in the Federal Field Committee report. The problem relates to the welfare of the fishing community itself. In Alaska, this situation has become acute, and it is my belief that changes for the better in the quality of life for Alaskan fisherman must begin in their homes and communities. A central aspect of this problem is that all processing and marketing of Alaska's catch takes place far from the fishing grounds. It is essential to expand, through cooperative enterprise, the range of services which can be maintained at the local level. If the fishing communities of Alaska and other States could begin to control greater segments of the storage, processing, and marketing of the fish caught by that community, the quality of life in these communities would be raised through self-help.

Although I have focused this statement on the problems of the Alaska fisheries, there is no question in my mind that I am speaking for all American coastal States on this problem. We share in this concern regarding one of our finest and most important industries, and I am pleased to join many of my colleagues in seeking the best available solutions.

Today, I will be introducing a single bill, the Fisheries Development Act of 1971, which in its comprehensive approach to this problem affords an excellent beginning for improvements in the situation confronting the American commercial fishing industry. On the following days, I will be introducing additional groups of bills. The first will deal with the fishing waters of the United States, the definition and protection of those waters and the conservation of American fisheries resources.

The second will relate to programs designed to assist American fishermen in improving, modernizing and expanding their activities, and to programs designed to assist fishing communities.

The bill introduced today, the Fisheries Development Act of 1971, is based on a bill introduced earlier in the Senate by Senator EDWARD KENNEDY. In my view, it represents a strong statement regarding the comprehensive nature of changes needed to revitalize the American fishing would be a crucial beginning in returning industry. The bill includes eight points which shape a program which, if enacted, American fishing to a position of world leadership.

First, the bill provides for a fishing extension service in the Department of Interior with the purpose of acting as a clearinghouse for information on fishing and an educational center for members of the American fishing community. This provision recognizes that a failure of communication within the industry is a central aspect of the problem.

Second, the bill provides an authorization for technical assistance grants. It is my hope that this program will enable American fishermen to modernize their techniques and to have the financial support to back up the ingenuity which has always served them so well. Navigation assistance, sonar, modern gear and safety equipment will all be included in this program.

Third, the bill provides funds and services designed to encourage the development of new fisheries resources. In Alaska, this means the beginning of utilization of the bottom-fish resources of the Gulf of Alaska, long recognized as one of the major unused resources of the Pacific Northwest. In other areas of the Nation, equally important and heretofore unutilized resources will be developed.

Fourth, the bill encourages the rapid development of fish protein concentrate. In its utilization of previously unused resources and its response to clear world food needs, this is a crucial area. Provisions in the bill would authorize new research and would enable production of this new product to move forward rapidly as a new food source.

Fifth, the bill would provide financial encouragement to fishermen's cooperative organizations, and sixth, it would give financial support to new fish marketing strategies and agreements. Together, these two provisions should work to give the fishermen a new share of control in the final disposition of the fish they labor for so hard. In Alaska, where much of the fishing activity is centered in remote villages, this sort of development is extremely important. Previous work done in organizing rural cooperatives will be applicable to new processing and marketing plans.

Seventh, the bill provides for a new, regularized system of reviewing fish imports. A semiannual review of imports and a statement of the effect of imports on the domestic industry would enable completely new responses when undesirable situations arise. There is no question but that in this period of fisheries decline, maximum economic protection must be given to our domestic fisherman.

Eighth, and extremely important, the bill provides an authorization for a complete review of fishing regulations at all levels of government. The goal of such a review would be the formation of uniform regulations directed toward the maximum utilization of the U.S. fisheries resources.

In earlier remarks on this bill, Senator KENNEDY cited the applicability of this act to the New England fishermen. There is no question that the act will be similarly beneficial to the fishermen of Alaska. Anyone who has spent time around fishing communities understands the harsh conditions under which fishermen must work in return for only moderate returns. The fact that fishing became one of our Nation's leading industries is a tribute to the determination and independence of American fishermen, and this bill is intended to capitalize on those qualities. In its extensive reliance on self-help, I believe the bill places the responsibility for revitalization of the fishing industry on very broad shoulders—the shoulders of the fishermen themselves. I urge favorable and deliberate consideration of this bill.

Continuing in the introduction of legislation designed to provide much needed assistance to the American fishing industry, the bills I am introducing in this second section have a simple and direct theme. That theme is the increased protection of American fishing waters and fish resources, especially from the threat of foreign fishing activities.

Every Member of Congress who has spent time considering this problem is very well aware of the situation. In recent years, the level of foreign fishing activity off the coasts of the United States has increased drastically, and is increasing yearly at an accelerating rate. In the last year, "incidents" involving American and foreign fishermen have become all too common.

The magnitude of the problem can easily be seen in the monthly reports published by the U.S. Department of Commerce on Foreign Fishing off U.S. coasts. The report for June 1971, was typical. Region by region, here is a summary of the activity during that time.

OFF ALASKA

A total of nearly 500 foreign vessels fished in June off the coast of Alaska. Japan had about 400 vessels, mostly fishing for salmon. The Russian fleet was down to 30 vessels after reaching a high of nearly 200 in February. A 12-vessel South Korean fleet arrived in mid-June and was expected to stay until September.

NORTHWEST ATLANTIC

A total of 185 vessels fished this area off New England in June, down from 310 vessels in May. There were 121 Russian vessels, and others from Poland, East Germany, West Germany, Bulgaria, Romania, and Greece.

OFF SOUTHERN U.S. COASTS

A total of 65 Mexican and Cuban vessels fished this area, along with numerous Russian fishing and support vessels.

OFF THE PACIFIC NORTHWEST

A total of 70 vessels, all from Russia, fished the waters off Washington, and Oregon in June. Large catches were observed on a number of these vessels.

These figures make the situation very clear. In some areas, foreign fleets fish American coastal waters more extensively than do the American fishermen themselves. The detrimental effects of this activity the becoming distressingly obvious.

First, American management and conservation programs for fisheries resources are based on projections which are made incorrect by the greatly increased activity. In addition, certain foreign fishing practices, even though done in international waters, are destructive of previously established U.S. programs. The taking of immature fish is an example of such practices, and the lack of coordination between such practices and American practices seriously undermines the conservation and management programs of the United States.

Second, there is no question but that this increased foreign fishing off the U.S. coast is decreasing the catch of individual U.S. fishermen, either at present or by insuring a decrease in the future.

Finally, the result at the end of this process is that the fish caught in the foreign fisheries operation are processed abroad and imported back into the United States, establishing an increasingly poor balance-of-payments deficit. The increase in this deficit for 1970 was 17 percent over the 1969 deficit.

The present United States response to this total situation is, in my view, inadequate. The system for delineating the territorial sea and contiguous fisheries zone is subject to exceptions created by treaties and agreements; the system for enforcement of the protected areas is inadequate to provide full protection; and the attitude regarding violations has a history of being excessively gentle with transgressors for fear of endangering international relationships. The final payment for these failures is made by the American fisherman, and I believe this must stop. A number of important immediate changes are proposed in the bills I am introducing today.

The first bill I am introducing deals with the problem of proper delineation of the territorial sea and the contiguous fishing zone. Although my strongest feeling at present is that this entire issue must be discussed and resolved in the immediate future, one action can and should be taken by this Congress. This action, as provided in the bill, is to authorize the use of the straight baseline method for determining the inward boundary of the 3-mile territorial sea, thus affecting the extended area for the 12-mile fisheries zone.

Under present standards, the baseline, or inner line from which the 3- and 12-mile boundaries are extended, is the low-water line along the coast. The straight baseline standard would alter this pattern to allow the drawing of a straight baseline across the headlands of an indentation or bay in the coastline or between islands which fringe a coastal area. Only where the opening of a bay exceeds 24 miles would the straight baseline method not include the bay within the territorial sea, and in that situation, the line can be drawn across at the point where the bay narrows to 24 miles.

The advantages of this method are obvious. It allows the United States to expand the area of the territorial sea to which possession may be claimed, and greatly increases the potential for domestic control of the marine resources of the coastal area. For some coastal States like Alaska, this will increase the area subject to regulation by either the State or Federal Government by as much as 30 percent.

The important gain from such an increased area will be felt eventually in the conservation of American fish resources. The increased area will mean that over a greater area than ever before, foreign fishermen will have to respect the same stringent fishing regulations which for so long have bound only the fishermen of the United States.

It is my firm intention that the eventual result in this area will be the full consideration of additional territorial and contiguous fishery zone concepts, including the possibility of extensions to 200 nautical miles and the concept of utilizing the Continental Shelf as a delineation. These additional measures for extending the area of American control will have to be used in time if no satisfactory alternative means of controlling foreign fishing activities is found or agreed upon.

For the present, adoption of the straight baseline method is essential, and provides an excellent foundation for future changes.

The second bill I am introducing today deals with the one factor which must be present to make any boundary extension meaningful—an adequate system of enforcement. The responsibility for this task falls almost entirely on the U.S. Coast Guard, and it is a responsibility well served whenever adequate facilities and funds are made available. As an Alaskan, it is my feeling that such facilities and funds have not been made available, and additional protective capability is necessary. For this reason, I am introducing a bill to authorize appropriations for the establishment of a new and fully equipped Coast Guard Station at a location to be determined in the Bristol Bay area of Alaska.

The reasons for the establishment of such a station are very strong. Taken on balance, I believe it is possible to say that, among all the fisheries areas of the United States, the waters of Alaska have the highest productivity and the highest level of foreign fishing activities as compared to the level of Coast Guard protection possible with present facilities. The figures are revealing.

As a State, Alaska led all others in 1970 in the value of its catch to fishermen at $89.7 million. As a single State fisheries region Alaska produced 11 percent of the total volume of the U.S. catch. At the same time, the level of foreign fishing activities in these rich Alaskan waters is the highest, month by month, of any U.S. coastal area. In June of 1971, nearly 500 foreign vessels fished off the Alaska coast. This is an area which requires the strongest sort of coastal protection.

I would in no way suggest that the Coast Guard is performing at any but the highest standards, given presently existing facilities. On the contrary, I share with most Alaskans a deep pride and fondness regarding the Coast Guard and its long service to our State. I do believe, however, that the waters of the Bristol Bay require additional protection.

The major station offering present Coast Guard protection in this area is the station at Kodiak Island on the Gulf of Alaska. The aircraft and cutters operating out of this station have been extremely active in the past year, spotting foreign vessels in violation of American waters and, whenever possible, making arrests. In spite of this activity, a great number of the reported violations have been in the Bristol Bay, separated from Kodiak by the Alaska Peninsula, 200 to 500 nautical miles, and a wide range of extremely difficult weather conditions. It is simply impossible, on many occasions, for a cutter to reach the site of a violation in the Bristol Bay before the offender has departed. The same is true of sea rescue operations in the Bristol Bay.

There is no question that this bill is an expression of need and a request for investigation and consideration. The facility I envision would include both air and sea capability, and a wide range of Coast Guard services. The location of the station should be determined at a later time based on the same considerations of proximity which lead me to introduce this bill. I believe that this measure is essential to make meaningful whatever territorial and fisheries boundaries are established.

A third bill being introduced today is in the spirit which must finally be called upon to solve most of the problems of the world's fisheries. The bill is a concurrent resolution requesting the President to take additional steps in preparation for the 1973 United Nations Law of the Sea Conference. Specifically, it requests the conference to consider the subject of anadromous fish. In introducing this measure, I express my hope for and belief in international resolutions of serious problems like the world's threatened fisheries.

The proposed resolution is simple and straightforward. Anadromous fish, particularly the North Pacific salmon, present a special problem of fisheries conservation. In a birth-to-death migrational pattern which brings this amazing species back to its specific birthplace for its reproductive cycle and death, the nation where the spawning ground is located must assume a very special role. Because the bulk of the world's stock of these fish is spawned in North American streams, the United States and its fishermen have a special burden to bear.

The forbearance of American fishermen in taking limited catches of salmon so as to insure an adequate escapement for future stocks is a measure now well integrated into the fisheries laws of the United States and Alaska. The problem arises when this forbearance is not matched by similar self- or governmental-restraint on the part of foreign fishing nations. Such a problem currently exists, and must be a primary point of advocacy by the United States at the Law of the Sea Conference in an effort to seek broad accords on this question.

At present, the International North Pacific Fisheries Convention provides an "abstention line" at longitude 175° W. to which the United States, Canada, and Japan have agreed to adhere by fishing only on their side of the line. The failure of Korea to be included makes this agreement less than fully successful, and at times endangers its existence.

The real point is that universal international agreement on this issue must be the goal. Failing this, the United States must seriously consider unilateral action, which will include the assertion of a proprietary interest in the anadromous fish spawning in U.S. waters. The U.N. Law of the Sea Conference offers a fine opportunity to avoid this final step.

At the present time, U.S. preparation for the 1973 Conference is taking place. U.S. planning for the Conference is centered around the law of the sea task force under the primary guidance of the State Department. This interagency group is moving forward on schedule, but I must note two possible shortcomings in their work. First, the preparation of both private fisheries business interests and the individual American fisherman. Second, the problem of anadromous fish does not seem to be receiving proper emphasis.

I believe the preparation for the Conference could very well benefit from remedying these possible shortcomings by calling a preparatory conference as proposed in the resolution. The emphasis of such a conference should not only be devoted to the proper U.S. position on anadromous fish to be taken at the Conference, but should rely heavily on representatives of the private sector of the anadromous fishing industry. I believe such a Conference can greatly enhance the chances for an international agreement on this issue which fully represents the U.S. position.

The final bill I am introducing today represents the strongest protective sanctions of any of these bills and, in a sense, recognizes that the provisions of the other bills may sometimes fall short in offering full protection to American fishermen and fish resources. The full truth, of course, is that even with territorial and fisheries boundaries firmly and rationally established, even with the best surface and air enforcement, and even with unprecedented international accord, there exists a strong likelihood that foreign fisheries activities will remain a substantial threat to American fishermen. At the present time, the situation is much worse than this, as the statistics included earlier disclose.

Two general types of foreign fisheries activity constitute the major portion of this threat to American fisheries. The first are direct violations of U.S. territorial and fisheries zones which go undiscovered, uncaught or if caught, punished at a nondeterrent level. At present, the worst a violator may fear is some delay or financial inconvenience. Although this situation is improving, a realistic deterrent does not exist.

The second type of threat is where foreign fishing fleets operate in international waters off the U.S. coasts, and engage in practices which render U.S. marine resources conservation programs and practices meaningless. All American fishermen are familiar with practices involving the taking of excessive catches or immature fish or the use of gear having the same detrimental effect. In most cases, present United States or international law offers no real protection.

The greater tragedy of this entire pattern is that in many cases, the fish which are taken by these means so detrimental to American fish resources are processed in the foreign country and then imported directly back into the United States at favorable prices. Thus, competition for American fishermen and processors is being permitted based on a foreign fish catch accomplished in violation of U.S. standards.

The bill I am introducing today offers a tough economic sanction against these harmful actions by foreign fishing fleets. Upon the determination of the Secretary of Commerce that nationals of a foreign country are conducting fishing operations in a manner which diminishes the effectiveness of U.S. marine resources conservation programs, or which interfere with other U.S. laws, treaties or practices, an importation ban may be placed against all the fish products of the offending country.

Others in both the House and Senate have introduced similar legislation, and all have done so in frustration over the present scheme of protection for American fishermen. All have recognized that this bill offers the maximum sanction in today's society: damage to the pocketbook. I believe it will be successful if enacted, and urge all deliberate haste in its consideration.

These four bills introduced today represent a pattern which I believe may be successfully followed in achieving the desired level of protection for U.S. fishermen and fish resources. It involves first, the establishment of firm and rationally based boundaries for fisheries jurisdiction; second, an adequate scheme for enforcement and surveillance capability and punitive measures; third, a compre-

hensive attempt to seek international agreements which would hopefully obviate the necessity for enforcement and punishment; and fourth, a willingness to use strong economic sanctions where necessary to protect fish resources which cannot be protected otherwise. I would urge the prompt consideration of this approach and the legislation submitted today to carry it forward.

GREECE: AN UP-TO-DATE ASSESSMENT BY HELEN VLACHOS

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, the military dictatorship in Greece continues to tighten its grip and the official American attitude continues ambiguous, at best.

From the early days of the April 1967 coup, many of us said that Colonel Papadopoulos and his clique would attempt to hang on to power as long as possible. This view was disputed by American policymakers at the time. Hardly any serious observer disputes this now. Unfortunately, U.S. Ambassador to Greece Henry Tasca is still numbered among those who take at face value those junta promises which have proven to be nothing more than calculated deceptions.

The recent action of the House of Representatives in voting to cut off military aid to the dictatorship rescued, in part, the moral and political reputation of our Nation. It was a step in the right direction, but it will take much more if the United States is to reclaim the trust of those able public officials, elected by the Greek people, who freely provided those military bases which are now cited by junta apologists as the justification for the continued U.S. support of the dictatorship. These political figures, who, in the long run, will guide the fortunes of Greece, will not easily forget the mistakes of the United States nor forgive the Pentagon for providing 1,100 telephone taps to be used against them and others.

Last week Mrs. Helen Vlachos, the distinguished Athenian newspaper publisher now in exile in London, testified before the Subcommittee on European Affairs, the House Committee on Foreign Affairs. Her statement deserves careful reading now and I place it in the RECORD at this time so that we may have the benefit of her analysis. It will be several weeks before the full committee hearings will be available in print.

In addition, it is a fact that the Greek newspapers are faced with constant threats, censorship, and intimidation, and material which would otherwise be barred can be reprinted if it first appears in the CONGRESSIONAL RECORD.

Under leave to extend my remarks, Mrs. Vlachos' statement follows:

STATEMENT BY HELEN VLACHOS

Mr. Chairman, and members of the Committee, I thank you for the opportunity you have given me to address you and to testify on the present situation in Greece.

Although I have left my country very nearly four years ago, I have kept constant contact with the people living in Greece, as well as with the Greeks living abroad. And I am as well informed about what is happening inside Greece as I ever was, when sitting behind an editor's desk, in the middle of Athens.

Then, the same as now, I had to rely on responsible people, journalists or politicians, or professionals of every kind, to come and bring me news and information, and give me the picture of what was happening in the different parts of Greece, in the provinces, in the North, in the Islands, in many places much further away from Athens, than Athens is now from London.

I was then the proprietor and publisher of two conservative daily newspapers. I am still the proprietor of these newspapers, which with the consent of my husband and the majority of our staff, suspended publication immediately after the coup d' etat of 21 April 1967, and have been silent ever since, but if I have stopped publishing in Athens, I have continued, one way or another, to publish ever since.

That the way of the past is different from the way of the present is indisputable. But publishing, basically is communicating with the public. And in an ironic turn of fate, the fact of being silenced in Greece, has given me a much more effective international voice than I have ever had.

This, in turn, has made me the recipient of every scrap of information coming from Greece. So that I can confidently say, that what I am going to present you with today is a spoken issue of the newspaper "Kathimerini"; what this newspaper founded by my father in 1919, and always on the front of the national battles, would have published, if the freedom of the Press had been re-established, and if the newspaper was again in circulation.

There is no doubt about the principal headline on front page. It read: "Greeks Welcome Signs of Change in U.S. Policy." Because—and do not let anyone tell you differently—the great majority of Greeks of every walk in life, all the responsible leaders of political parties of every shade, high level and unshakeably patriotic officers, heard with deep satisfaction the overwhelming vote of the House of Representatives to suspend military aid to Greece. To Greece? No. To the men who pretend to represent Greece. To be Greece. To a regime headed by a man, George Papadopoulos, who does not represent anybody but himself. A man to whom Greece owes nothing, who has never fought in the battle-front, a man who together with a small group of comrades in conspiracy, hijacked the NATO tanks, purloined a NATO plan, who surprised and captured a peaceful city, kidnapped and brutalized the members of a Conservative Government (distinguished Greek politicians against whom no charge of any corruption has ever stood), blackmailed young King Constantine into momentary submission, and put to effect an operation which had only one target: the gaining of power, and the fulfilling of personal ambitions.

The action of these men, changed the image of NATO in the eyes of many of its European allies, nearly as much the action against Czechoslovakia has changed the "Warsaw Pact", in countries like Roumania. That this has been disregarded by the United States, in exchange for military facilities, is a constant source of worry for many Western countries. But we will come to that later.

I want to come back now to the earlier days of the coup, and to our decision not to publish the newspapers. It was not only the censorship, that is the amputation of the newspapers that made this decision irrevocable, it was something much worse, it was the obligation to publish whatever was given to us by the Press Service of the military. Not only to withhold the truth from our public, but also to force-feed it with poisonous propaganda, composed of lies, of fabricated stories of calumnies and blatant distortion of events past and present.

Much of this propaganda implanted during these first days, and repeated ever since, still persists in keeping a measure of credibility: The first was the colossal bluff of "an imminent Communist take-over . . ." That there was no danger of any other take-over, except the one performed by the Greek Army, was proven by the simple fact that no one else, in the whole city of Athens was armed for such an operation. The night of the coup, six thousand people were dragged out of their beds, and herded into the improvised prison camps. They were the supposedly dangerous ones, the communists, the radicals, the Union leaders, the activists, the members of the youth organizations of the left wing parties. They were searched, and their houses were searched. And no arms, no weapon of any kind, was found, on any of the six thousand prisoners, or inside any of their homes.

For the same reason the inevitable sequel: "The military saved Greece on the brink of disaster" was dismissed by anyone with a modicum of common sense. What was more difficult to disprove at that time was that "the Greeks were sick and tired of their politicians" and so presumably were quite happy and contented to let the Army take over the government of their country. Because partly, this was true, The Greeks were tired of their politicians, as the people in every democracy frequently are, and often go to the polls with very little enthusiasm for the man they are going to vote for, just disliking him less, than his opponent. That does not mean that they would have chosen the military to take their place.

Incidentally, this propaganda ploy, one of the most favoured by the colonels, was blown up sky high one year and a half later, on the occasion of the funeral of old liberal leader Georges Papandreou. In an extraordinary explosion of public sentiment, hundreds of thousands of Athenians conveyed their love and respect, not only to the dead politician, but also to his living opponent. Although at the time police terror was at a new height—and the danger of being brutalized and tortured had become, for the first time since the departure of the Gestapo, a Greek reality—people not only manifested with tears and expression of deep sorrow. when the body of Georges Papandreou passed through the Athens streets, but also more unexpectedly, cheered wildly, and held up in arms his opponent and very much alive, Conservative leader Panayiotis Kanellopoulos when he came out of the Athens Cathedral, where he had gone to attend to the funeral service. From that moment on, the military realized that the former politicians were back, their faults forgiven, and that no amount of brain washing would ever make the Greek people consider them enemies of Greece, corrupt traitors, . . . etc., etc. And what's more, that in the event of free elections, they would get the votes.

And before finishing this part of the early days of the coup, another successfully channeled fabricated story inside and outside Greece, was the '. . . chaos and anarchy which prevailed in Athens,' and supposedly made the intervention of the Army inevitable.

I was there, and I know how much chaos and anarchy there was. Political unrest, yes. Strikes, and demonstrations and near riots . . . yes again. They were at their height during the period of 1965–67. And during this period, the whole period, counting Athens and Salonika, the only other city hit by this 'terrifying anarchy and chaos,' there was one victim. One death. It made such an impression that I still remember his name, Sotiris Petroulas, a young student who died during a demonstration, by hitting his head on the pavement. During these two years there was less violence in the whole of Greece than there is now in a weekend in California.

I must apologize at this point, for bringing in a subject that concerns me personally. Ever since I have been speaking in public I have been confronted with what I supposedly have written myself, in our newspapers, and which present a completely different picture of the events and the situation during the pre-coup days, of the one I have been describing ever since. The same material exactly was offered to the Commission of the Council of Europe, where I testified before the Court for Human Rights, the same were printed and distributed last year in San Francisco, when I addressed the Annual Conference of the American Association of Newspapers Editors and, presumably, some of it will see the light at any future occasion. To this, the answer is easy. I have for 22 years written a regular column with a well known by-line, published on our editorial page. Not one item attributed to me, was ever an extract of my own column. . . . Searching through the leaders which were published in the newspapers, and fishing little snippets of material out of context, they accuse me, the publisher—not of being legally responsible for their publication—which I certainly was, but of having written them myself. The military can be excused into believing that publishers at the head of many publications write every article by their own hand . . . but others should refrain from such naivete.

The more so, as what I was writing at the time was quite different, and I could prove by quoting whole columns in the mood of this paragraph, taken from my article published one year before the coup—'It is incredible that there are people in Greece who precisely through fears of dangers imaginary or otherwise crave to live under the rule of tyranny. To speak of a semi-dictatorship, or a temporary dictatorship, or a benevolent dictatorship of the right, is just nonsense. There is only one man who approaches happiness; a free man. There is only one country that offers it; a free country.'

My responsibility was that the newspaper being the most important Conservative tribune, I allowed others, to express these fears, and exaggerate the dangers. This I accept, as a major mistake. The truth is, that before the coup, like most conservative Greeks, I was only afraid of Communism.

By no stretch of the imagination, neither me, nor the people who shared my political opinions, could ever have foreseen that Greek officers, operating under an Allied command, supposedly trained by NATO to protect the freedom of their country, would fall upon Greece with all the brutality of a foreign invader. And that they would be allowed to do so, and even encouraged and helped in their actions.

As the finishing touch to this brainwashing exercise, after the imaginary condition of "complete chaos and anarchy . . ." we have the blissful image of the new situation of "Law and Order."

Only a few days ago I read that: "Now, a woman can walk unmolested in the streets of Athens . . ." This is probably true, but before the coup a woman could not only walk unmolested in the streets of Athens and in the parks of Athens, even at night, but once in her own house, could count on being unmolested there too. The Secret Police coming at dawn, arresting people without warrants or charges, was a nightmare that concerned the people living behind the Iron Curtain. Or so I thought until the 4 October 1967, when it happened to me. When on that day, at seven in the morning the bell of our flat started ringing, I went and confidently opened the door. Three men walked in. I tried to stop them and ask them who they were, what did they want. "Secret Police", said the first. Still I asked for their papers: "How do I know you are Secret Police?" The man smiled: "You do not have to know anything; we are the ones that have to know." And he proceeded with his companion to tear up the place. It was a chilling experience, and a terrifying simple exposition of what a police regime, and its brand of "Law and Order" means in everyday life. *You*, the citizen, are not entitled to any explanations, you have all your rights. *You* are on the receiving end for orders coming from *them*.

The first two years were the worst. And this should be noted by the many people who would like to persuade the U.S. Government, that any measure taken against that kind of regime is "counterproductive", that it only hardens their stand, and makes the lives of the people in the country more difficult. This line, of course, is the easy line of less resistance, the one taken by all collaborators in every war, in every fight.

The contrary is the truth. Specially so in the case of our colonels. It was when they were allotted the "benefits of the doubt", when they are recognized by the Western powers, when they were tolerated by a part of the Greek people, that they were at their most brutal. And it was the condemnation of the Council of Europe, and the fear of losing American support that made them relent. Because by that time the military had realized that they were very much alone. Martial Law and the state of siege, a ruthless police machine and an expanding network of spies, helped them keep the country in an iron grip, but estranged more and more from the Greek people.

One of the classical reference books, published in England, the venerable "Annual Register of World Events," now in its 209th year of publication, describes the coup in this way: "On April 1967 a group of middle rank officers, put in operation a contingency plan drawn by NATO, seized power in a bloodless coup d'etat. The first actions of the government were by turns popular, savage and ridiculous."

Now this "popular" percentage was dwindling away. People inside Greece could turn their heads away and pretend not to recognize the existence of brutality and torture—but they could not pretend not to hear what the new "leaders" said, using all the media at their disposal. And the Greek people waited in vain, to hear the military utter any definite political line, show any symptom of coherent political thought. Even if a Greek wished to become the "good Christian Greek citizen" the regime wanted him to be, he would not know where to start, what to do, what to say. The ramblings both of Papadopoulos and Pattakos, only revealed their crass ignorance of the Greek language, the basic vulgarity of their aspirations, and the astonishing fact that they had no political orientation of any kind.

It was then that the Greeks, silently and discreetly reverted to their old parties, and to the newspapers that were connected with them in the past. Preventive censorship had been lifted at the end of 1968 (one of the moves intended to impress the Council of Europe), but the new Press Law, allowed very few freedoms. Most subjects dealing with current Greek events were taboo. But the newspapers in Greece never could be accused of being parochial. They were, in the past, full of foreign news. Now they are overflowing. Foreign politics, foreign economics, foreign scandals, foreign elections, foreign murders, foreign revolutions, cover every page. And as the choice of this material cannot be defined by any law, every newspaper, without touching Greek politics, has taken back its old personality. This gave the Greek people the possibility of choice, and the expressing of political opinion, through a daily poll that could not be controlled or disregarded. The majority of the readers, at a ratio more than ten to one, silent, faceless, safe in their anonymity would choose the newspapers, that did not show any signs of being pro-junta.

Nine newspapers are published at this moment in Athens, of which four are openly for the government, and one, the Nea Politia,' published on September 1968, is directly connected with Papadopoulos' brother, and supposedly the porte-parole of the regime. It comes ninth, last in circulation, in spite of every possible effort. The other three do not fare much better fighting for the eighth, seventh, and sixth place, and selling all four together, around 40,000. And on the other end, we have the Nea' and Apogevmatini', each with a circulation of about 100,000 copies daily. The first clearly conveys left-wing tendencies by being anti-American, anti-war, pro-black, indulgent on permissiveness, pro-intelligentsia, while the other keeps safely on the right, but refrains from any criticism against the politicians, and puts a word for Karamanlis or Kannellopoulos whenever possible, usually just quoting safe agency news.

These figures, incidentally are official, and they are analyzed, dissected, commented and give way to wide speculation, and have destroyed the last vestiges of popularity that the regime liked to claim. National leaders' whose pictures on front page are poison, cannot pretend to be loved by the people. One photograph of Papadopoulos and the newspaper hangs unsold in the three thousand Athenian kiosks. And, again, no amount of official vituperation against the former political leaders,—Karamanlis and Kanellopoulos specially, can dispell the fact that their names on front page have such a magical quality that even the pro-junta newspapers use them as much as they dare (accompanied by derogatory subtitles in small print . . .) to boost their sales.

There is no doubt to anybody's mind, and to Georges Papadopoulos too, that in the event of elections, of free elections, the regime would get as many votes as "Nea Politia" and her companions get readers. This they know. And that is why they will do whatever possible, give whatever promises, offer new timetables, swear new oaths, for keeping elections as far away in the future, or at least, if pressured to hold them, to conduct them themselves, in orthodox Soviet lines.

The last reshuffle of the Athens government, is considered to be a sign that Papadopoulos may have such a plan in mind. There is a sort of interim character in the new government, and if Papadopoulos himself has gained power, if he has enlarged his territory, he has also become more vulnerable, and less protected by the myth of the young turks, the younger officers that they would not let him proceed towards democracy . . . Now it is quite evident that he can do what he likes. For many of us it was quite evident since the first day, but that is another story.

Also his appointing the six Governors in the six provincial districts points that way. It looks very much like putting in good electoral "order" by the time-honoured police methods, the Greeks living in small towns and in villages.

But it is too late for such an exercise. It worked for the Referendum for the Constitution on an issue which was any way incomprehensible to most of the voters. It will not work now. If Georges Papadopoulos tries to call elections with himself as head of Government, and Party, he will run alone. This I can tell you as a fact. Not one responsible Greek politician, not even the ones that in the past did try to come to terms with the regime, like Evanghelos Averoff and Spyros Markezinis, will take part in this new farce.

What they must be pressured to do, plainly, is give the Greeks their voice back. Now, while there is still time. Now that the Greek people in a free election, will vote for anything but Communism. Alternatives are waiting in the wings, and not only politicians, many with their popularity still in-

tact, but younger men, professional, economists are ready to work together and bring back their country to freedom and normality. There is, I repeat, still time. But one does not know how much.

If the situation is allowed to deteriorate (and it is quite certain that it has no chance under the present regime to get any better) what is not yet a danger may become a very real one. In a book to be published in London the early part of next year under the title "Inside the Colonel's Greece", a very distinguished Greek has this to say—an assessment with which I fully agree:

". . . Among the responsible Greeks, there is no doubt at all that to the man in Moscow, the Greek dictatorship is a gift from heaven. In the battle of ideologies, propaganda and influence, which the confrontation between West and East has become, each country can be an example and a stake. In this context, a Greece with a leaning towards the West, democratic and in full economic development scarcely concerns the Soviet. If it belongs to a sphere which Moscow must refrain from touching, at least for the moment, it is infinitely preferable—from the Soviet point of view—that she should be governed by a reactionary dictatorship. Apart from the immediate and obvious advantages this offers to anti-American propaganda in the East, the continuation of this regime provides other long term benefits:

"(1) The mass of the Greek people is becoming more and more detached from the Western world, and its resentment against the United States, which it considers responsible for the dictatorship, is arousing in it feelings which, if not pro-Soviet (the affair of Czechoslovakia has made this difficult) are at least neutral, the product of a double distrust.

"(2) The structures and representatives of liberal democracy are slowly being destroyed. Little by little, moderate opinon will be discredited, and with it the men who represent it; there is a polarization, more and more marked, between a fascist minority, on the one hand, and a discontented anti-American majority on the other.

"(3) The Armed forces are losing their efficiency, and at the same time becoming an object of public hatred.

"(4) The economy is going from bad to worse, and will acquire a character of neocolonial exploitation which is more and more pronounced, thanks to the policy pursued by the Government of borrowing from international financial groups. These developments could one day lead to a revolutionary situation which the Kremlin would be interested to exploit. In proportion to the degree of possibility of exploitation it could either try to snatch Greece from the Western camp and annex it, or negotiate neutrality of finally agree once again to drop the revolutionary Greeks in exchange for advantages in other parts of the world. All this, it is true, demands time . . . maybe a dictatorship of years; but we know that Moscow looks far ahead. That is why the Communist Party has so far refrained from any serious participation in the Resistance—if we except its publications, which aims above all to fight the influence of the new Left. Wisely Moscow keeps its own forces in reserve, in the hope that when all the other resistance groups will have been weakened or discredited, it will present itself as the only serious contestant at a moment which will suit the policy of the U.S.S.R."

The book will not be signed, as the author now living in Greece must be protected in order to retain his present usefulness.

That Moscow is patient, is a fact. And in the occurrence, why not be. The longer the regime stays, the more bitter the Greek people feel against the Americans, the Western World, the military, the Establishment . . . even the christian religion. What more the godless people of the East can hope for, to gain from a situation which works automatically, without the Soviet having to spend any effort, or money, or prestige?

This is all very well—I can guess your thinking—but how does one get Papadopoulos out? How does one succeed in making him allow free elections?

Wars, and fights, are not solved by questions. They are won by taking the right steps, in the right direction, and hope for good developments. To win a war, one must first and foremost want to win it. During the occupation we knew very well that sticking an anti-German poster would not be instrumental in the ultimate victory. But it was in the right direction. One target at a time, and the belief that one is right, is all one can do.

And that is all, Greeks, and Europeans, wish the United States to do. We have never in the past asked for the Marines, we are not asking now the physical removal of the people who are in power in Greece.

What we are asking is the frank, sincere, outspoken, support, for the Greek people who are under their yoke. We are asking, simply, official America, to take sides, and stop whispering 'Democracy' to the anti-regime Greeks and practice the contrary.

We are asking from America to behave as an Ally of the Greek People, and not as a buddy of a non-elected, not representative, militaristic government. We also ask, we pray, that the United States stops from being so blatantly afraid of Papadopoulos and his crowd. They cannot take away Greece from NATO, and the Western World. To believe that is to believe anything, and to forget, that all the power that Papadopoulos has, stems directly from NATO. The regime is under NATO's orders and under the Pentagon's blessing, and has no other doors to knock on.

When I told you earlier that the decision taken by the House of Representatives was heartily welcomed, by the highest placed Greeks right down to the man in the street, that was because this was a step in the right direction. It was a political decision, just as it was a political decision when taken immediately after the coup, and a political—and regrettable—decision when it was reversed last September. And it is again a political decision now.

Military aid, is as we all know, (because we have been told, publicly, by the military themselves), a two-faced Janus. There is the basic 'military' military aid, which has never really stopped, and there is this 'political' military aid, that is given to the military, for services rendered.

Not because of the 'Security of the United States.' It would be a sorry hour, when the security of the United States that is the security of the Western World depended upon the good will of the Greek junta and of an undisciplined Army of near mercenaries. Because that is what the Greek Army is deteriorating into. The Greek Army as it is now, cannot be compared with the Greek Army before 1967. It has been purged from its most experienced officers, and from every veteran with an exceptional war record. The list of officers cashiered, brutalized, jailed, exiled and tortured reads like a roll call of honour. The Navy and the Air Force are in a state of disintegration because of the anti-regime spirit prevalent among the men. This NATO knows quite well as it knows that the allied military exercises in the Mediterranean are suffering from its weak Greek link.

If Greece as a military force and if the Greek Army as a fighting Army, really concerned the Pentagon, as it does concern many European NATO countries, then this low morale, and lack of discipline would have been a cause for worry. Because if there is one material that the Pentagon, rich and mighty as it is, cannot provide is morale and dedication and that intangible fighting quality that brings victory to one army and defeat to the other.

But the unpalatable truth is that the Greek Army has been demoted from a respected Ally to a uniformed servant, a useful obliging provider of military conveniences, and of non-military port facilities. And in that capacity, the people who keep the Army that way, are appreciated, and given regular bonuses so that they are kept happy.

This has taken some time to discover, and for people like me, some time to believe. It is an ugly situation and a dangerous situation and it hurts the image of America, and of NATO, more than it hurts Greece.

To finish, let me touch one more sensitive point which crops up inevitably during any discussion about Greece with American officials. This is the so-called argument of 'non-interference.' We are told that you cannot, and do not want to interfere, when on our side what we come to ask is for you to *stop interfering*.

Because what you are doing, is interfering You are interfering when you help and support an illegal government hated by the Greek people.

You interfere when you become the apologist of this regime and try to influence organizations like the Council of Europe of which you are not even a member.

You interfere when you give the military a new lease to continue brutality when you officially and publicly state that the reports on torture are exaggerated, and that in Greece the number of political prisoners is negligible.

Negligible? Hundreds of Greeks are still in jail for political offenses. Their crime-fighting for freedom. We do not consider their number negligible, as we don't consider the number of American prisoners in North Vietnam a small percentage for a country of 200 million. We think of them as brave men, brutally treated and humiliated who also have fought for the same cause of freedom. We think of your prisoners, in Viet Nam, and we believe that you should think of ours in Greece.

And stop giving a helping hand, and friendly smiles to their gaolers.

Thank you.

SPEECH BY HIS EXCELLENCY JAMES C. H. SHEN TO THE SAN FRANCISCO PRESS CLUB, AUGUST 2, 1971

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, in order to place into proper perspective what we can expect in our future dealings with Red China, I would like to call attention to a speech given by the Republic of China's Ambassador to the United States, His Excellency James C. H. Shen, to the San Francisco Press Club on August 2.

Ambassador Shen raises the question: What has changed in the thinking of the Red Chinese leaders when Mao declared in 1947 that "the American imperial groupings have replaced the Facists of Germany, Italy, and Japan," against whom the "anti-imperialist forces must wage a bitter and militant struggle" from the Chinese Communist Government's proclamation of July 15, 1971, demanding that the "people of the world unite against the U.S. aggressors and all their running dogs"?

The answer is, of course, there has been no change in thought or in deed of the Communists. Only the thinking on the part of the present administration has changed.

I trust that when the President re-

turns from Red China emptyhanded, the United States will resume a more realistic position vis-a-vis Red China.

Ambassador Shen's speech follows:

SPEECH BY HIS EXCELLENCY JAMES C. H. SHEN

Gentlemen, it is indeed a double honor for me to have the privilege to address you today.

I say, double, because after having been absent from San Francisco for so long, this is the second opportunity I have had in less than a week to speak here on matters of paramount importance to both our Governments and to people everywhere. When I lived in this fair city, as a newspaper man, it was my job to report to my countrymen on events taking place in your country. Today I would like to report to you on some events taking place in mine and with particular regard to the overriding question of United Nations representation.

First, I should point out, that with my Government—the Republic of China—this is not really a question at all, but, a matter of historical fact—past record—and present position.

How did the Republic of China earn membership in the United Nations in the first place? It did so by virtue of its contributions to the cause of peace and freedom before and during World War II. From 1931 to 1941 it fought single-handedly against one of the mightiest war machines of that time—without allies and with little material aid from abroad. During those long and difficult years, we had more than once been approached by the Japanese to agree to a settlement on terms not altogether unfavorable to us. But we rejected all offers because we were fighting not just to establish secure borders but for a principle—the principle of law and order on international relations. It is a principle on which we could not compromise. And, ladies and gentlemen, when all is said and done, that principle was the motivating force behind the establishment of the United Nations and so remains today.

When the war that started in China developed into a global conflict, my Government became in 1942, one of the principal allies which signed the Declaration of the United Nations. Subsequently it played an important role in the drafting of the United Nations Charter. It was one of the four powers that sponsored the founding Conference here in San Francisco. And in so doing, it also actively participated in the formation of the specialized agencies. The legal status of the Republic of China has not changed since then. The Government continues to function on Chinese territory. There has been no break in the continuity of our leadership, our principles, and our policies.

How have those policies been translated on Taiwan? I would like to answer by first quoting Tillman Durbin, The New York Times correspondent who recently visited mainland China after an absence of a quarter of a century. He wrote the following and I quote: "One of the early objectives of the Cultural Revolution . . . which began in 1966 and goes on today, was to wipe out the 'four olds'—old things, old ideas, old customs and old habits. The 'four olds' had already suffered in the years of the Communist rule preceding the Cultural Revolution, but the Maoist leadership tried to use the new revolutionary upsurge launched in 1966 to eliminate them completely" end of the quote.

On Taiwan we are preserving and treasuring what Mao refers to as the "four olds"—which is another description of Chinese culture and the Chinese way of life. In so doing, we have the highest rate of economic growth in Asia. We had 3 billion dollars worth of foreign trade last year. We have the highest per-capita income in Asia, next only to Japan. Our farmers own their own land through a land reform program instructed twenty years ago and known round the world for its benefits and success—not only to farmers, who had never owned anything before, but also to the original landowners from whom the land was purchased—not confiscated or taken by force. Most of our industry is privately owned. As a result we have about the best living conditions in Asia. Presently, we provide nine years of free education for all our children.

Militarily, we have 600 thousand men under arms and over a million in active reserve. There are no—and I must repeat again *no* American combat troops on Taiwan. It is a fact that we continue to receive some indirect military aid but that is because we are your ally. We have a mutual defense pact between us. As your ally we are making a contribution to collective security of the Free World in the Western Pacific. And you may all consider this a personal invitation to come and see for yourselves what we have done on Taiwan. May I also try to rest a continuing error—the statement that we are being supported by American dollars. We have received *no direct foreign aid since 1965*, and since 1960 we have been sending technical assistance largely in the realm of agriculture. Today we have 21 such clients.

More than clients, however, the Republic of China represents to Chinese on the mainland, here in San Francisco, and all over the world, a beacon of hope, a bed-rock of political reality in a time when political confusion is in high ascendancy and is being used to obscure and distort the issues that confront us—the issues of war and peace.

To us, the largest area of confusion is that Peking "represents" 750 million Chinese and therefore is entitled to my Government's seat in the United Nations. Let us examine that contention from the point of view of Peking's attitude and behaviour and from the United Nation's perspective.

I think you will all agree that the Communist regime on the mainland has nothing in common with the Government of China which participated in the founding of the United Nations, nor does it have anything in common with the founding purpose of the United Nations to "save succeeding generations from the scourge of war." Instead, Peking promotes violence and war. It makes a fetish of force. It foments armed insurrection in neighboring countries. It is a past master in the art of political subversion. It is the world's greatest theoretician and practitioner of guerrilla warfare and undertakes to train, equip, finance, and direct "people's war" on a global scale. The essence of Maoism can be summed up in this well known quote: "the seizure of power by armed force, the settlement of issues by war, is the central task and the highest form of revolution."

In a recent edition of *U.S. News and World Report* attention was called to the fact that of the 23 nations that make up the continent of Asia (excluding the Middle East) 16 are embroiled in some kind of war, rebellion or civil strife—much of it instigated or supported by Peking. These countries are home to 1.8 billion people, over half of the world's population.

If you should have any doubts about the present intentions of the Communist regime and its adherence to the doctrines of repression and hate, all you have to do is tune in on Peking Radio which broadcast the following message fifteen minutes after announcing your President's visit to Peking—"People of the world unite against the U.S. aggressors and all their running dogs." The message is certainly clear enough, and so is the record in—Korea, Malaysia, Tibet, India, Indonesia, Africa, Latin America—the current training of Arab guerrillas for terror tactics in the Mid-East. The recitation, gentlemen, is global in its intent and certainly almost global in its effort. And there is no doubt, according to Mr. J. Edgar Hoover, that Peking's hand is here, too.

To us there is no doubt that Peking is the world's greatest instigator of war and violence and that its enmity toward the United States is a policy that antedates its seizure of the mainland. This poses a question? Since there is a long tradition of friendship between China and the United States, why have the Chinese Communists regarded the U.S. as its number one enemy and carried on a sustained campaign of hate America?

The answer lies in history. As early as April, 1945, Mao Tse-tung had predicted that "remnant Fascist forces" and the "anti-Fascist peoples", labelling the United States as one of the former. Recently I have seen in the press criticism of U.S. policy in 1945 for failing to accept the wishes of Mao Tse-tung and Chou En-lai to come to meet with your leaders. I cannot help but wonder how those who now consider that this was a serious mistake on your government's part can reconcile the trust one allied government would have for another should it welcome those who seek the overthrow of its partner?

At any rate, in his New Years message for 1947, Mao declared that "the American imperial groupings have replaced the Fascists of Germany, Italy, and Japan," becoming world aggressors against whom the democratic and "anti-imperialist forces must wage a bitter and militant struggle."

Well, that was nearly 25 years ago. What has changed in that message between then and now? What has changed in the requirements for U. N. membership as specified in the Charter? Do the same regulations still apply or on the misguided wings of something called "universality" can you expell a founding member to replace him with an outlaw regime? If the Charter doesn't give the answers, gentlemen, nothing does. Permit me to refer to it. Chapter II, Article 6, reads: "A member of the United Nations which has persistently violated the principles contained in the present Charter may be expelled from the organization by the General Assembly upon the recommendation of the Security Council."

I don't believe from the point of view of performance or legality that the Republic of China fits that bill of particulars. And putting aside altogether the fact that both our countries have veto power in the Security Council—the passage just cited is the law of the Charter concerning the expulsion of members. There is no other way by which it can be circumvented. Unfortunately, however, there are those today who are ready and even anxious to throw vital principles of the Charter overboard in order to accommodate the Communists.

You know as well as I that the United Nations declared the Chinese Communist regime an aggressor in Korea in 1950, and you know that in 1960 the International Committee of Jurists found the regime guilty of genocide in Tibet, on which the United Nations passed an upholding resolution the following year. One might well ask then how can such a regime qualify for membership in any world body? The answer, unfortunately, lies in the fact that appeasement is in the air. Expediency rather than principles seems to be the primary preoccupation of Peking's idolators. The Communists *represent* the 750 million Chinese on the mainland, they *say*. In our time many words have come to mean something quite different than the accepted definition, but I do not think one can find a greater distortion in the meaning of the word "represent" as it is used in this case. Peking does not represent my countrymen. It *rules* them barbarously. It controls their lives, their thoughts, their relations with their loved ones. It makes a life a prison. It tortures and destroys. The most conservative estimate of those who have perished on the mainland through execution, forced labor and reoccurring purges, is placed at 20 million. Other estimates double the figure, but whatever the figure, it stands as a reflection on the word "repre-

sents." It is not mythology, gentlemen, it is stark brutal reality.

Currently it is being reported by some newsmen who have recently been allowed on the mainland that food is now plentiful there. Of course, in the places they have been permitted to visit, it has purposely been made plentiful. But if the food is so plentiful, why do escapees continue to describe its lack—describe the meager rations on which they must live while working a 16-hour day. Why is it necessary for Chinese living in Hongkong to send literally millions of dollars worth of food packages to their relatives on the mainland? Why is it that Chinese of all ages at this very moment are still trying to escape from the mainland? Seven thousand of them have done so safely since the beginning of the year, more than 3 million since the Communists seized control. Those figures are a measure of something that cannot be denied. The more than 150 thousand escapees who presently live in and prosper on Taiwan know what that something is. It is not "representation"—and there is nothing in the U.N. Charter that suggests it be recognized as such.

On the other hand, I know it is argued that the realities of international life are such as to make strict adherence to Charter provisions out of the question. Indeed, the United Nations today is very different from what its founders conceived it to be twenty-six years ago. Far from a community of purpose vested with authority to demand compliance of members with certain specified obligations, it has now become a battleground of conflicting interests. It has, therefore, been contended that the United Nations cannot be other than a mirror reflecting faithfully the world as it is rather than the world as it should be. This being so, it is unrealistic to quibble over the question whether Peiping qualifies for membership or not.

I am as aware of the changes that have taken place since 1945 as the next man. But I cannot accept the proposition that the purposes and principles of the Charter must be abandoned for the sake of reflecting the realities of the world situation. The Charter, it seems to us, is the basic law of the United Nations. You cannot tamper with the basic law of an organization without doing irreparable damage to the organization itself.

As you know, there is a school of thought in the United States which discounts the threat posed by the Chinese Communists. They attribute Peiping's outrageous and beastly behavior to the American policy of trying to isolate the regime from the rest of the world. They picture Mao and his followers as more Chinese than Communist, more interested in the recovery of China's lost hegemony in Asia than world revolution, more frustrated than expansionist, more given to grandiloquent rhetoric than to conquest. Membership in the United Nations, they believe, would cure all this. The interplay of ideas and interests in the world community would, in their view, sooner or later cause the Chinese Communists to abandon their aggressive and bellicose ways and accommodate themselves to the rule of law and the comity of nations.

This, it seems to me, is wishful thinking. It fails to understand the tremendous importance of the Maoist ideology as a determinant of behavior. The Chinese Communists, it should never be forgotten, take their ideology seriously. They are out not merely to gain China's seat in the United Nations. They intend to remake the United Nations in their own image. For them international relations are not simply a matter of conventional dealings between nation and nation, government and government. Their approach to international affairs demands the use of every possible tactic to change the pattern of world development. The United Nations would be used not to "save succeeding generations from the scourge of war," not to stabilize the situation in areas where peace is threatened, not to solve vital problems or settle international disputes, but to promote conflict and dissension so as to transform the Organization into an instrument of their own policy. Indeed, Peiping has never been known to have joined any international organization in order to achieve common ends. One has only to see how it has split the world Communist movement to know what is in store for the United Nations should it be allowed to occupy the seat of the Republic of China.

In view of all else, it would appear that your Government's policy toward the matter of representation is fixed on a so-called "two Chinas" policy. I have only this to say about it. We have never violated the Charter, as I specified earlier. The Communist regime has and as a consequence is not eligible for admission into the United Nations, all other reasons notwithstanding. This is very clearly indicated in Chapter 1, Article 2, Paragraph 6 of the Charter which states: "The organization shall ensure that states which are not members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security."

This means that Peking cannot escape the sanctions of the Charter just because it is not a member. And on this basis it seems clear to us that a "two Chinas" policy is patently illegal and would be in contravention of the Organization's rules.

Gentlemen, just as we participated in the creation of the United Nations as one of the founding members, we are continuing to participate in its operation and we intend to participate in its preservation. We are there by right, and we believe there are still enough members in that body who care enough about Charter and the continued existence of the United Nations to keep us there. We certainly do not intend just to go away. (Incidentally, as I noted last week, our delegation there has just taken a ten year lease on office space in a nearby building just in case anyone was wondering).

Contrary to much misinformed current discussion the United Nations was never conceived as a "universal" body. This point was painstakingly discussed in this city in 1945 when drafting the Charter, from which I quote Article 4:

"Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the organization, are able and willing to carry out these obligations."

Does the Mao regime qualify under these definitions? I leave it for you to judge.

Is this the regime which some Americans of high reputation are backing for a seat in the peace-maintaining international apparatus? They are proposing a miracle linking of the lion and the lamb.

Have you ever heard the conditions Chen Yi, Peiping's foreign minister set down for their admission to the United Nations?

"The United Nations must rectify its mistake and undergo a thorough reorganization and reform. It must admit and correct all its past mistakes. It should cancel its resolution condemning China and the Democratic People's Republic of Korea as aggressors and adopt a resolution condemning the United States as the aggressor."

Now the issue of the United Nations may just be an academic exercise to you who are still secure—but I assure you it is a most serious matter to those of us who are in the front lines—in Asia. We cannot afford to argue philosophic points at this crisis in world history. The stakes are enormous.

Gentlemen, I am saying to you as clearly as I know how we have come to the sticking point. There is no option of retreat or accommodation.

We are small, we are spirited. We are counting on the spirit of Americans to help us continue that battle. To help us keep alive the hope of our mainland brothers that the torch of freedom still burns brightly in our island province and, someday, for them also.

Ours is a battle we cannot afford to lose. We are in it to the conclusion and we are firmly convinced that right is on our side.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. DWYER (at the request of Mr. GERALD R. FORD), on account of official business.

Mr. STAFFORD (at the request of Mr. GERALD R. FORD), on account of official business.

Mr. KEITH (at the request of Mr. GERALD R. FORD), on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARCHER), to revise and extend their remarks, and to include extraneous matter:)

Mr. SAYLOR, today, for 10 minutes.

Mr. MILLER of Ohio, today, for 5 minutes.

Mr. WYMAN, today, for 10 minutes.

Mr. YOUNG of Florida, today, for 5 minutes.

Mr. HOGAN, today, for 5 minutes.

(The following Members (at the request of Mr. DAVIS of South Carolina), to revise and extend their remarks, and to include extraneous matter:)

Mr. GONZALEZ, today, for 10 minutes.

Mr. FRASER, today, for 10 minutes.

Mr. FULTON of Tennessee, today, for 10 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the Record, or to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ARCHER) and to include extraneous matter:)

Mr. MCKINNEY.

Mr. DEVINE.

Mr. HALL.

Mr. SCHERLE.

Mr. VANDER JAGT in two instances.

Mr. ZWACH in two instances.

Mr. VEYSEY in two instances.

Mr. MILLER of Ohio.

Mr. WYMAN in two instances.

Mr. BAKER in two instances.

Mr. MINSHALL in five instances.

Mr. MATHIAS of California in three instances.

Mr. SPRINGER.

Mr. HOGAN in 10 instances.

Mr. MICHEL.

Mr. SCHMITZ in two instances.

Mr. DERWINSKI in two instances.

Mr. PELLY.

Mr. SCHWENGEL.

(The following Members (at the request of Mr. DAVIS of South Carolina) and to include extraneous matter:)

Mr. TEAGUE of Texas in eight instances.
Mr. BEGICH in five instances.
Mr. HARRINGTON in two instances.
Mr. GONZALEZ in two instances.
Mr. HAGAN in three instances.
Mr. RARICK in three instances.
Mr. FRASER in five instances.
Mr. BRINKLEY.
Mr. RANGEL in two instances.
Mr. FULTON of Tennessee in two instances.
Mr. GALLAGHER.
Mr. KARTH in two instances.
Mr. GREEN of Pennsylvania.
Mr. EDWARDS of California.
Mr. MATSUNAGA.
Mr. RODINO.
Mr. ANDERSON of California in two instances.
Mr. MAZZOLI.
Mr. GIAIMO.
Mr. BENNETT in two instances.
Mr. VANIK in two instances.
Mr. HUNGATE.
Mr. HICKS of Washington in two instances.
Mr. MILLER of California in five instances.
Mr. WALDIE in five instances.
Mr. ANDERSON of Tennessee.
Mr. JOHNSON of California.
Mr. FUQUA in two instances.

ADJOURNMENT

Mr. DAVIS of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Thursday, September 16, 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:

1135. A letter from the Secretary of Health, Education, and Welfare, transmitting the second annual report of the National Center for Deaf-Blind Youths and Adults, pursuant to section 16(c)(2) of the Vocational Rehabilitation Act; to the Committee on Education and Labor.

1136. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to give the consent of Congress to the construction of certain international bridges; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARING: Committee on Interior and Insular Affairs. H.R. 9890. A bill to require the protection, management, and control of wild free-roaming horses and burros on public lands (Rept. No. 92-480). 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. ROGERS (for himself, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER of North Carolina, Mr. ROY, and Mr. HASTINGS):

H.R. 10681. A bill to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer and the other major killer diseases as soon as possible; to the Committee on Interstate and Foreign Commerce.

By Mr. ADAMS (for himself, Mr. ANDERSON of California, Mr. BRADEMAS, Mr. BRASCO, Mr. COLLINS of Illinois, Mr. COTTER, Mr. DANIELSON, Mr. DIGGS, Mr. FREY, Mr. FULTON of Tennessee, Mr. HASTINGS, Mr. MCFALL, Mr. METCALFE, Mr. MOSS, Mr. O'KONSKI, Mr. PERKINS, Mr. RIEGLE, Mr. ROE, Mr. ST GERMAIN, Mr. SAYLOR, and Mr. SEIBERLING):

H.R. 10682. A bill to amend the Public Works and Economic Development Act of 1965, as amended, to establish an emergency Federal economic assistance program, to authorize the President to declare areas of the Nation which meet certain economic and employment criteria to be economic disaster areas, and for other purposes; to the Committee on Public Works.

By Mr. ARCHER:

H.R. 10683. A bill to amend the National Labor Relations Act to require a vote by employees who are on strike, and for other purposes; to the Committee on Education and Labor.

By Mr. BARING:

H.R. 10684. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. BEGICH:

H.R. 10685. A bill to amend the act of August 27, 1954 (commonly known as the Fishermen's Protective Act) to conserve and protect U.S. fish resources; to the Committee on Merchant Marine and Fisheries.

H.R. 10686. A bill to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966, to require that the method of straight baselines shall be employed for the purposes of determining the boundaries of such fishery zone, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 10687. A bill to authorize appropriations for the establishment of a U.S. Coast Guard station in the Bristol Bay area of Alaska; to the Committee on Merchant Marine and Fisheries.

H.R. 10688. A bill to provide certain essential assistance to the U.S. fishing industry; to the Committee on Merchant Marine and Fisheries.

By Mr. CELLER:

H.R. 10689. A bill to make it a criminal offense to discharge an employee for the reason of such employee's Federal jury service; to the Committee on the Judiciary.

By Mr. DICKINSON:

H.R. 10690. A bill to amend title 5, United States Code, to include as creditable service for purposes of civil service retirement periods of service performed in nonappropriated fund instrumentalities of the Armed Forces, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DRINAN:

H.R. 10691. A bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers; to the Committee on the Judiciary.

By Mr. FRELINGHUYSEN:

H.R. 10692. A bill to allow certain service with international organizations to be considered creditable service for Federal retirement purposes; to the Committee on Post Office and Civil Service.

By Mr. FULTON of Tennessee:

H.R. 10693. A bill to prohibit any U.S. court from issuing any order or from enforcing any order requiring the excessive transportation of students from one school to another or from one school district to another in order to achieve racial balance; to the Committee on the Judiciary.

By Mr. GARMATZ:

H.R. 10694. A bill to amend the joint resolution expressing the sense of the Congress with respect to the shipping in U.S. vessels of products purchased with loans from the United States in order to apply the provisions of such joint resolution to other types of credit assistance; to the Committee on Merchant Marine and Fisheries.

By Mr. KEATING (for himself, Mr. KUYKENDALL, Mr. HANSEN of Idaho, Mr. HALPERN, Mr. MORSE, Mr. EILBERG, Mr. MAZZOLI, Mr. BRINKLEY, Mrs. CHISHOLM, Mr. GERALD R. FORD, Mr. FRENZEL, Mr. PEPPER, Mr. WINN, Mr. CLANCY, Mr. LONG of Maryland, Mr. ANDERSON of Illinois, Mr. HOGAN, Mr. MATSUNAGA, Mr. FREY, Mr. BYRNES of Wisconsin, and Mr. BELL):

H.R. 10695. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical, and other counseling services for transient youth, and for other purposes; to the Committee on the Judiciary.

By Mr. SNYDER:

H.R. 10696. 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. WINN:

H.R. 10697. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for individuals aged 65 and older during nonpeak periods of travel; to the Committee on Interstate and Foreign Commerce.

By Mr. WYATT:

H.R. 10698. A bill to provide for the establishment and administration of a national wildlife disaster control fund; to the Committee on Agriculture.

By Mr. ASPINALL:

H.R. 10699. A bill to designate the Soap Park Reservoir, Fruitland Mesa project, Colorado, as the Milly K. Goodwin Reservoir; to the Committee on Interior and Insular Affairs.

By Mr. BURTON:

H.R. 10700. A bill to amend the Revised Organic Act of the Virgin Islands to modify the application of certain provisions of law relating to Western Hemisphere trade corporations; to the Committee on Interior and Insular Affairs.

By Mr. MELCHER:

H.R. 10701. A bill to place in trust status certain lands on the Fort Peck Indian Reservation, Mont.; to the Committee on Interior and Insular Affairs.

H.R. 10702. A bill to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community; to the Committee on Interior and Insular Affairs.

By Mr. MIKVA:

H.R. 10703. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress; to the Committee on Post Office and Civil Service.

By Mr. SCHWENGEL:

H.R. 10704. A bill to provide for the detail of Foreign Service Officers to private institutions and organizations, and for other

purposes; to the Committee on Foreign Affairs.

By Mr. BOB WILSON:

H.R. 10705. A bill to amend Federal Aviation Act of 1958, as amended, to authorize the establishment of a class of limited air carriers and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANNUNZIO (for himself, Mr. ANDERSON of Illinois, Mr. ARENDS, Mr. COLLIER, Mr. COLLINS of Illinois, Mr. CRANE, Mr. DERWINSKI, Mr. ERLENBORN, Mr. FINDLEY, Mr. GRAY, Mr. KLUCZYNSKI, Mr. MCCLORY, Mr. METCALFE, Mr. MICHEL, Mr. PRICE of Illinois, Mr. PUCINSKI, Mr. RAILSBACK, Mrs. REID of Illinois, Mr. ROSTENKOWSKI, Mr. SHIPLEY, Mr. SPRINGER, and Mr. YATES):

H.J. Res. 869. Joint resolution recognizing the State of Illinois and the city of Chicago as hosts in 1992 of the official quincentennial celebration of the discovery of America; to the Committee on the Judiciary.

By Mr. JONES of North Carolina:

H.J. Res. 870. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. QUIE:

H.J. Res. 871. Joint resolution asking the President of the United States to declare the fourth Saturday of September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. RARICK:

H.J. Res. 872. Joint resolution proposing an amendment to the Constitution of the United States redefining the "advice and consent" of the Senate, for purposes of the President's treatymaking power, so that two-thirds of the full Senate must concur; to the Committee on the Judiciary.

By Mr. ANDERSON of Illinois (for himself and Mr. STEELE):

H. Con. Res. 399. Concurrent resolution to relieve the oppression of Soviet Jewry; to the Committee on Foreign Affairs.

By Mr. BEGICH:

H. Con. Res. 400. Concurrent resolution to request that the President call a conference on anadromous fish in preparation for U.S. participation in the 1973 United Nations Law of the Sea Conference; to the Committee on Merchant Marine and Fisheries.

By Mr. WINN:

H. Con. Res. 401. Concurrent resolution expressing the sense of the Congress with respect to the designation of the year 1973 through 1978 as the World Environmental Quinquennium to involve all nations of the world in a global environmental research program of both national and international scope; to the Committee on Foreign Affairs.

By Mr. ZWACH:

H. Con. Res. 402. Concurrent resolution expressing the sense of the Congress with respect to the withdrawal of American troops from Europe; to the Committee on Foreign Affairs.

By Mr. DULSKI (for himself, Mr. PRICE of Illinois, Mr. NIX, Mr. DANIELS of New Jersey, Mr. O'HARA, Mr. RANDALL, Mr. UDALL, Mr. MURPHY of New York, Mr. CHARLES H. WILSON, Mr. WILLIAM D. FORD, Mr. HANLEY, Mr. JACOBS, Mr. WALDIE, Mr. BRASCO, Mr. BRINKLEY, Mr. EILBERG, Mr. TIERNAN, Mr. HARRINGTON, Mr. BEGICH, Mr. HICKS of Washington, Mr. HOGAN, Mr. BROYHILL of Virginia, and Mr. GUDE):

H. Res. 596. Resolution disapproving the alternative plan, dated August 31, 1971, for pay adjustments for Federal employees under statutory pay systems; to the Committee on Post Office and Civil Service.

By Mr. MILLS of Arkansas:

H. Res. 597. Resolution authorizing the Committee on Ways and Means to make studies and investigations within its jurisdiction; to the Committee on Rules.

By Mr. SCHWENGEL:

H. Res. 598. Resolution to create a House Select Committee on Aging; to the Committee on Rules.

H. Res. 599. Resolution to provide for the designation of the calendar month of October of each year as "Drug Awareness Month"; to the Committee on the Judiciary.

By Mr. WALDIE (for himself, Mr. CAREY of New York, Mr. BERGLAND, Mr. JACOBS, Mr. HOWARD, Mr. ST GERMAIN, Mr. ASPIN, Mr. NEDZI, Mr. YATES, Mr. EILBERG, Mr. MCCLOSKEY, Mr. ROSENTHAL, Mr. FRASER, Mr. ANDERSON of Tennessee, Mr. STOKES, Mrs. CHISHOLM, Mr. LEGGETT, Mr. WILLIAM D. FORD, Mr. FAUNTROY, Mr. HAWKINS, Mr. DANIELSON, Mr. COLLINS of Illinois, and Mr. MCCORMACK):

H. Res. 600. Resolution to abolish the Committee on Internal Security and enlarge the jurisdiction of the Committee on the Judiciary; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOW:

H.R. 10706. A bill for the relief of Antonio Sammartino; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 10707. A bill for the relief of Lt. Col. Theodore Dake, Jr.; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 10708. A bill to provide that a gold medal be presented to the widow of the late Louis Armstrong; to the Committee on Banking and Currency.

By Mr. MELCHER:

H.R. 10709. A bill to authorize the Secretary of the Interior to convey certain lands to August Sobotka and Joseph J. Tomalino of Intake, Mont.; to the Committee on Interior and Insular Affairs.

By Mr. MILLS of Arkansas:

H.R. 10710. A bill for the relief of Arnold D. Crain; to the Committee on the Judiciary.

By Mr. SLACK:

H.R. 10711. A bill for the relief of Mrs. Purita Paningbatan Bohannon; to the Committee on the Judiciary.

By Mr. VAN DEERLIN:

H.R. 10712. A bill for the relief of Flora Datiles Tabayo; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 10713. A bill for the relief of Wilma Juguilon Koch; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

TENNESSEE GROUP HEALTH FOUNDATION

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1971

Mr. FULTON of Tennessee. Mr. Speaker, there is a new health care program underway in middle Tennessee which I feel worthy of mention to my House colleagues. I am referring to the Tennessee Group Health Foundation—TGHF—the South's first prepaid group health "alternative" to high medical insurance costs.

Funded in part by a $250,000 Federal Health, Education, and Welfare Department grant and in part by a $36—estimated—monthly family membership fee, the program is expected to initially enroll some 10,000 middle Tennesseans. Since early sponsorship of the program came from State labor leaders, first memberships will be granted through labor organizations. Enrollment was expected to begin September 1.

The foundation is unique in the way it provides medical services and arranges for payment of monthly dues. Treatment is provided at local health maintenance organization clinics, with doctors provided under contract to the HMO. Payment is made in person to the HMO, and since services are prepaid, there is no delayed mail billing and no insurance tieup.

Medical service at the HMO clinics is provided on an unlimited visit basis. Members can receive treatment whenever it is required. Included for coverage are laboratory and diagnostic work, prenatal delivery and pospartum care, well baby care, immunization, casts, dressings, eye exams, chronic care, home visits, and hospital stays longer than 30 days. The program serves its members, cradle to grave.

The TGHF concept was authorized under the Tennessee Health Maintenance Organization Act, a measure made law this past May. It marks Tennessee as a leader in the progressive health care field.

The article follows:

PREPAID HEALTH PROGRAM, SOUTH'S FIRST, GETS GRANT

(By Keel Hunt)

A $250,105 federal grant was announced here yesterday to establish the South's first prepaid group health program—a plan designed to offer consumers an "alternative" to high medical insurance costs.

The grant is to help finance development of a system of medical care under the new Tennessee Group Health Foundation. The foundation would contract with doctors who would organize and direct a group practice.

Citizens who form the foundation—to be called a Health Maintenance Organization (HMO)—would pay dues or premiums to cover the cost of a range of medical care services.

Dexter Kimsey, HMO regional coordinator for the U.S. Department of Health, Education and Welfare, said the TGHF grant was the largest of six awarded in Southern states and totaling more than a half million dollars.

The foundation plan differs from health insurance policies, E. L. Collins, foundation vice president said, since members visit HMO health clinics each time they make monthly payments. And since the health care would be prepaid, the member would receive no bill for the service, he said.

Rep. Richard Fulton attended the TGHF press conference yesterday and called the foundation "a real step forward in providing a real health program for all our citizens."

TGHF plans call for an initial membership of 10,000 in Middle Tennessee. The health plan was first sponsored in the area by state labor leaders, and a foundation spokesman