Answer. Yes. Overproduction, estimated at 300 million bushels without controls, could push wheat to feed-grain prices.

Question. If there is no wheat program in 1964 and no feed-grain signup in 1964, what would happen to feed-grain and livestock prices?

Answer. Corn would probably fall below 80 cents, wheat around 90 cents, hogs around $12 and cattle about $16.

There were many similar dire threats in recent weeks. Such depressing, fearful and catastrophic voices were heard far, wide, and often.

They told wheat farmers of the penalties awaiting them and their families if they did not vote as they were told to do. These voices of doom were meant to scare, terrify, and intimidate.

The farmers of the Nation proved that they could neither be bought nor scared.

Mr. President, if such dire results come about and such punishment is meted out, it will be a willful, deliberate act on the part of the President of the United States, the Secretary of Agriculture, and the overwhelming majority by which their party controls the Congress.

The Senator from Nebraska, for one, refuses to entertain thoughts that the administration would willfully plunge the Nation into such depths of depression. My respect for the President, and for my colleagues in the Congress as patriotic, well intentioned and sincere, is too high to allow me to believe them capable of such irresponsible and reckless conduct.

It is because of that high respect and good faith which I accord the President and the Congress that I have confidently expressed the view that new legislation will be passed in timely fashion this year. The "monkey" is not on the back of the Senator from Nebraska in that regard, Mr. President, nor on the back of any other Senator who made similar prophecy. It is on the backs of the President, Secretary of Agriculture, and Congress of the administration, because it is they who have the power and the force to either approve such bill into law or to refuse to do so. Should they refuse to do so the farmers of the Nation, those who favored the wheat plan as well as those who voted against it, will be fully and clearly aware as to the presence and place of that proverbial monkey.

CONSTRUCTIVE ALTERNATE

Several bills have already been introduced in both Houses to serve as a basis for constructive and wholesome action.

In deciding on the ultimate legislation to be developed from the several proposals, there should and must be the awareness by the Congress that the mandatory, objectionable, unduly restrictive, and unworkable Freeman-Cochrane approach has been repudiated as national policy.

Hearings and discussions in the House and Senate Agriculture Committees, and debate on the floor, should achieve a result more in keeping with the traditions of the Congress.

A course of earnest and deliberate search for a constructive alternative made in good faith is dictated by decency, fairness, and the national well-being. We should not be satisfied with less.

ARE ALTERNATIVES OFFERED TARDILY?

Frequently during the referendum campaign, the question was raised as to why opponents of the Freeman wheat plan did not have a proposal of their own. It was asked repeatedly, why it was that an alternative plan to Freeman's remedy was not advanced so that it could be scrutinized, studied, and compared with the Freeman wheat plan before the vote was taken.

The plain and simple answer is this: The lack of an alternative proposal by Congress was deliberately designed by the advocates of the Freeman wheat plan. They did not want any alternate plan on the ballot. They wanted the ballot to appear with only one choice: The Freeman wheat plan and nothing else. We were expected to ignore that the choice of a farmer's ruin is also a choice we would face.

Here is the history: In its 1962 session the Senate witnessed repeated, determined efforts to have the ballot at the wheat referendum contain two proposals. The first effort was debated and voted upon on May 24. It was rejected by a vote of 53 to 36. It was opposed vigorously by the Democratic Members. Only six Democrats voted in favor of such an alternate plan being on the ballot.

The second effort was made on August 21. It was rejected by a vote of 50 to 29. On that occasion only three Democratic Members voted in favor of an alternate plan on the ballot. Again, except for those three votes, the Democratic administration opposed putting an alternate before the wheat farmers for their consideration.

With such a history we can readily discard any complaint on this point coming from those who favored the Freeman wheat plan.

TRIBUTE TO THE VOTING FARMER

The outcome of the wheat referendum proved the farmer to be one of the few remaining breeds of independent, individual thinkers. Notwithstanding the heavy pressures used by officialdom, of all of its influence and powers, as well as threats and procedures heretofore never applied in such elections, he asserted himself courageously and emphatically.

After all, the farmer has the opportunity to think matters out for himself. He uses it well. He had much at stake in that election. He is a capitalist with considerable investment. He knew that his future would directly and immediately be affected by his decision. He knew that what he can do for his family now and what he can leave them when he is gone would be affected by his vote.

With that type of incentive he took his duty to render wise decision very seriously.

The result of the wheat referendum vote truly showed that the farmer is not one who can be bought or scared when he exercises the privilege and the right to vote. For this alone, he should be honored. But there are many who feel that those who voted in the wheat referendum should receive the gratitude of all farmers, whatever crops they raise.

Without question, had the referendum vote been favorable, a similar supply management concept, theory, or plan would have been attempted for all other forms of farm activity: feed grains, livestock, poultry, dairy, and others.

Last week's vote sets that issue at rest, and properly so. The American farmer is not ready for such a philosophy; nor is the American public.

One can hardly refrain from expressing the earnest hope that the true spirit of the referendum will be honored and observed; that we will proceed to draw legislation and make proper provision for the farmer will be consistent with the action taken in the vote.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 25 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, May 28, 1963, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate May 27, 1963:

NATIONAL GUARD BUREAU

Maj. Gen. Winston Peabody Wilson, [redacted] a Reserve commissioned officer of the U.S. Air Force, member of the Air National Guard of the United States, to be Chief of the National Guard Bureau for a period of 4 years to date from August 31, 1963, under the provisions of title 10, United States Code, section 3015.

The officers named herein for appointment as Reserve commissioned officers in the U.S. Air Force under the provisions of sections 8218, 8351, and 8392, title 10, United States Code.

To be brigadier general

Col. William H. Clarke, [redacted], Montana Air National Guard.

Col. Homer G. Goebel, [redacted], North Dakota Air National Guard.

Col. Kenneth E. Keene, [redacted], Indiana Air National Guard.

Col. Frederick P. Wenger, [redacted] Ohio Air National Guard.

HOUSE OF REPRESENTATIVES

MONDAY, MAY 27, 1963

The House met at 12 o'clock noon.

Rev. Frank Blackwelder, rector, All Souls Episcopal Church, Washington, D.C., offered the following prayer:

Infinite and imminent Father, come near us as we pray to Thee.

May the Speaker and each Member of the House of Representatives be orbited by Thy energy, Thy inspiration, and Thy vision.

Surround them with the spirit of unity, the aura of strength, and the light of guidance.

Grant that their deliberations and decisions may assist in alleviating and resolving the tensions and strains pres-

ent in our Nation, our hemisphere, and in the world.

Through Him who came to bring peace and good will, Jesus Christ, our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, May 23, 1963, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries.

MESSAGE FROM THE SENATE

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

H.R. 5207. An act to amend the Foreign Service Building Act, 1926, to authorize additional appropriations, and for other purposes.

THE HOUSE OF REPRESENTATIVES

Mr. CHARLES H. WILSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.

Mr. CHARLES H. WILSON. Mr. Speaker, it is a tradition in the older legislative halls of Europe that a new member give his maiden speech within the first 6 months of holding office. After giving his maiden speech he is expected to seat himself back down and say no more for the next 6 years.

I am now rising to give my maiden speech in the House of Representatives. We do not require, thank heavens, that I say no more for the next 6 years. However, I can assure my distinguished colleagues that in the future when necessity compels me to speak I shall be both brief and to that point. I realize full well that the business before this House is of too serious a nature for time consuming speeches.

A new Member in this distinguished Chamber finds many new experiences facing him. No matter where he may have served before as a legislator—there is no equal to the House of Representatives.

I find that my work here is challenging and at the same time stimulating. I am impressed by the caliber of men that lead my party on the floor of the House and I am impressed by the caliber of men that lead the loyal opposition on the floor of the House. I find that the men heading the committees of the House are experienced, capable, and truly devoted to our national interest. You might say, Mr. Speaker, that I find the House of Representatives a mighty impressive place from all aspects.

It is a pity that the public does not better understand our legislative process. Politics, after all, is still the art of compromise. When a bill has passed through the sandtraps and minefields of our legislative system we can fairly assume it is a bill that will benefit the most number of people, and at the same time damage or hurt the least number of people.

I expect as time goes on to learn more of the arts and science of the legislative trade. A Member of this House truly never ceases to learn. Each day brings something new, and each week better equips him to serve his constituents.

There have been newspaper attacks on the lack of progress shown during this session. More bills, some sources feel, should have been acted upon. I invite those members of the newspaper fraternity that have been critical of the House to sit with me on the Banking and Currency Committee, or for that matter on any committee of the House. They will find that where a committee is split or undecided on the merits of a bill, so perhaps is the Nation as a whole split or undecided.

This House, to its everlasting credit, reflects the opinion of the country at large. I share the views of the distinguished Speaker of the House, the gentleman from Massachusetts, the Honorable JOHN MCCORMACK; this House is the greatest legislative body in the world. There is no seat of government that can match it. When a bill is not agreed to speedily we can be sure that a majority of our citizens are not prepared to accept it. This may not be always what I would want, or what another Member would want, but ours is a democratic society and the House is a very democratic legislative body. Such is as it should be. I trust we will never change.

As most of my colleagues are aware, I am a member of the Democratic Party. I am proud of that and make no apology for it. The Democratic Party is the oldest continuing political party in the world, and yet we have one of the youngest Presidents in the world. It shows my party is still young at heart and has many more years of leadership ahead.

I take pride in the fact that I support my party and that I support our President. Naturally, I reserve the right to oppose any programs or policies I believe unsound for my district and our country, but the great truth of the Democratic Party is that most of our programs and policies are both good for my district and good for the country.

In conclusion, Mr. Speaker, let me stress the great privilege and honor that comes with service in this historic Chamber. I believe that only exemplary conduct and the highest moral character can be displayed by a Member of the House of Representatives. Someone once said of the Presidency, "The Office is greater than any man"; the same is true of this House. A new Member has a great tradition to follow. I trust I will be worthy of that tradition.

FEDERAL EMPLOYEES GROUP LIFE INSURANCE

Mr. OLSEN of Montana. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

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

There was no objection.

Mr. OLSEN of Montana. Mr. Speaker, on May 16, 1963, I sponsored H.R. 6403, to provide an additional unit of group life insurance of $1,000, or a unit of $2,000, under the Federal employees group life insurance program, which will not be reduced when the employee reaches the age of 65 if then retired, or upon retirement after age 65.

My bill also will permit the Civil Service Commission to adjust the premiums paid by the employees and by the Government so that the combined premium will cover the cost of the new benefits authorized by my bill, as well as the benefits which have been added to the life insurance program since first authorized by Congress in 1954.

Mr. Speaker, this additional insurance is vitally needed by our Federal employees when they reach the critical age of retirement, or age 65. I supported a similar proposal during the 87th Congress which was passed by the Senate and favorably considered by our House Committee on Post Office and Civil Service—House Report No. 2383, accompanying S. 1070, 87th Congress.

However, last year's proposal was vigorously opposed by the administration and we were led to believe that even if the proposal were passed by the Congress, it would not have much chance of being approved by the President.

The principal reason offered by the administration for objecting to this additional life insurance was that existing premiums were not adequate to support even the existing level of benefits and would not, of course, provide any coverage for the new benefits proposed.

The law now requires that employees pay two-thirds of the premium and the Government pay one-third, but the rate for employees may not exceed 25 cents biweekly for each $1,000 of life insurance. The Commission has prescribed the maximum rate permitted under the law of 25 cents for employees and 12½ cents for the Government, making a total of 37½ cents per biweekly pay period for each $1,000 of insurance. Both the Civil Service Commission and the Comptroller General of the United States have reported that a premium rate of approximately 43 cents would be required to cover the current cost of benefits and that the existing rate of only 37½ cents results in an annual $18 million premium deficiency.

Mr. Speaker, I am convinced that the additional units of life insurance are vitally necessary to round out the life insurance program for our Federal employees. I would like to be able to recommend that the employees have this additional benefit without an increase in the rate of the premium. However, if the only way to remove the opposition of the administration to my proposal is to authorize an increase in the rate of the premium, then I believe that an appropriate adjustment in the premium is justified.

While I am not at all convinced of the validity of the arguments by the Civil Service Commission that a time will be

reached at some indefinite date in the 1980's when the annual benefit payments will exceed the annual premiums collected, nevertheless, I felt it advisable to propose, as I have in H.R. 6403, authority for the Civil Service Commission to adjust the rate of premium with the hope that the administration will then be able to support enactment of these very desirable additional benefits under the Federal employees group life insurance program.

WHEAT REFERENDUM AND 1964 PROGRAM

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include an editorial.

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

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, since the wheat referendum was conducted last Tuesday, there has been considerable speculation as to what happened and some misinformation as to the meaning of the decision. Some financial writers even indicated the change in support level would take place immediately and a large broker even told clients that any increase in production would go into the world market. The fact is that under Public Law 480, we keep wheat for sale at world market prices at all times now to the extent we can do so without violating antidumping agreements and to the extent other countries will let us sell to their importers. Most of the press reports have indicated a lack of awareness that an alternative wheat program for 1964, which is similar to the feed grains program in many respects, was included in the referendum and will under existing law be effective for the 1964 crop. This alternative program supports wheat at a price comparable to the feed grains support price, is voluntary, limits supports to those who stay within an allotment and while it does not require idled acres, it offsets this provision of the feed grains program by permitting the planting of diverted acres to other crops for harvest.

One of the best short summaries of the situation that I have seen is set forth in an editorial in the Des Moines Register which I am having printed in the RECORD so that others might read it. It is as follows:

AGAINST WHEAT CONTROLS

The Nation's wheatgrowers decided emphatically in the referendum Tuesday that they do not want compulsory acreage allotments for the 1964 crop. This is the first time in 13 referendums that wheatgrowers have turned down the so-called marketing quotas which really are compulsory acreage allotments.

Farmers had a clear choice and gave a clear answer. They chose voluntary acreage allotments with a guaranteed price of $1.25 a bushel in preference to compulsory allotments with a price of $2 per bushel for 80 percent of their normal yield and $1.30 for the rest of their production.

This was the first wheat referendum in which small growers (15 acres or less) were eligible to vote. They voted with the understanding that they would have to comply with allotments if the marketing quota vote carried. There was a heavy "no" vote in Midwest States where many farmers grow small acreages of wheat.

However, the decision in this election was not made by the small producers. The commercial wheat producers of the southern Great Plains also turned the program down. Kansas farmers voted 40 percent "yes," Texas 45 percent, and Nebraska 56 percent. Iowa's few growers voted 64 percent "yes," not quite enough to carry.

It takes a two-thirds favorable vote for marketing quotas to go into effect. The national vote was only 48 percent in favor, so there was a simple majority against the program.

It is a good thing that the vote was so decisive. If the commercial wheatgrowers had voted in favor and were outvoted by the sideline growers of the rest of the country, there would have been hard feelings between regions and the proponents of quotas would have been in a position to declare that the election was unfair.

Both sides in this fight should now accept the decision and live with it for at least a year. Under the law there will be another test vote a year from now, and farmers are free to change their minds. However, the impact of the decision against controls will not show up until after the next referendum when the 1964 crop is harvested, since the 1963 crop will be supported at the $2 level. So it may take 2 years before farmers really have the basis for judging whether they like the new freedom from acreage restriction—and from price support.

The Kennedy administration is obligated to live with this decision and not try to make it look bad by releasing excessive amounts of grain into the market. The law prevents wheat from being sold by the Government at less than 105 percent of the support price. However, there is nothing to prevent farmers from selling on the market. And with price support at only $1.25 for the 1964 crop, many farmers undoubtedly will plant more than their allotments and sell their wheat in the market without price support. So prices probably will fall well below $1.25 in 1964–65.

The consequence of this will be a large increase in the supply of wheat fed to livestock. One result may be that corn producers who are in the feed grain program will turn their corn over to the Government for the price support and buy wheat for livestock feed. This could mean a growth in Government corn storage stocks, along with some increase in wheat surpluses. It undoubtedly will mean an expansion of livestock and a decline in livestock prices eventually.

It would be a mistake for Congress to pass new wheat legislation this year with higher price support than the $1.25 alternative which farmers chose. It would be unfair to taxpayers to increase the subsidies for wheatgrowers who decided not to accept production controls. If farmers are not willing to hold production in line, they should take the consequences of a lower price. The Government cannot continue high price supports for unlimited production.

This is what the whole argument was about.

THE PROMISED LAND

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

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

There was no objection.

Mr. BOLAND. Mr. Speaker, recent events in the field of equal rights and justice to all Americans merely highlight and forecast the tragic days that most certainly lie ahead if reason and good will and concerted action are not taken to meet the challenge that our Nation faces.

Yesterday's Washington Post points up that there are many enlightened people who can be marshaled into an effective force to help solve the matter of treating all of our country's people alike without discrimination. There can be and there must be an appeal to this group to bind together in every section of this land in a gigantic effort to bring order out of chaos.

Mr. Speaker, I wish to include with my remarks, the Washington Post's May 26, 1963, lead editorial:

THE PROMISED LAND

Patience has become an ugly word to many Negroes. Their leaders can no longer use it. And from white leaders it stirs only exasperation. American Negroes have been incredibly patient—waiting for the freedom promised 100 years ago when their emancipation was proclaimed, waiting for the political enfranchisement and civil rights promised when the 14th and 15th amendments to the Constitution were solemnly ratified, waiting for the schooling promised when the Supreme Court recognized nearly a decade back that segregation cannot be equality.

All these years Negroes have waited patiently to cross into the promised land. They are not going to wait quietly any longer. James Baldwin put it very simply: "There's a bill that's been due in this country for a long time. Now, with Birmingham, it's come in and it's got to be paid."

The question is how the bill is to be paid—in rancor and bitterness or in generosity and brotherhood. It is true, of course, that deprivation and denial have made the Negro imperfectly prepared for full participation in democracy. But that is not his fault and can no longer be made a pretext for more denial and deprivation. The country can choose—must choose, for the choice is inescapable—between integration and enmity, between a generous giving of full equality to Negroes or a violent dispute over rights which can no longer be withheld.

That choice by the white community will determine the choice by Negroes between leaders who counsel rational restraint and disciplined striving and respect for the community's best values on the one hand, and leaders who preach hatred and vengefulness on the other. There are no other choices. Negroes can no longer be kept in subjugation. They have liberated themselves. They can be welcomed or rejected; but one way or the other, their bill has got to be paid.

There are ways in which integration can be eased and speeded. The country has indulged in a catastrophic lethargy about this problem over the past decade. The judicial branch of the Government has been left to take the initiative without appropriate assertion of the moral imperatives on the part of Congress, the Executive, or the State governments. Under the Kennedy administration, there have been gestures toward the recognition of Negro aspirations by the appointment of numerous exceptional Negroes to public office; and there has been energetic intervention by the Department of Justice when specific situations got out of hand, but now much more is needed.

Civil rights legislation is now under consideration, and two bills were introduced in the Senate on Thursday by Senators COOPER and DODD empowering the Attorney General to take action in the courts in behalf of individuals subjected to discrimination in the

public schools or in places of public accommodation. This legislation would be useful if it were now in force. Consideration of it at this juncture is a little like consideration of a bill to purchase a fire engine when the town hall is aflame. Nevertheless, it ought to be enacted, and promptly, as an evidence of congressional concern and to put an additional weapon in the Justice Department armory.

But the great need now, we believe, is for dynamic national leadership to tell the country of its crisis and to win public opinion to support the dramatic changes that must take place. All through the South there are men of generosity and vision ready to throw off the shackles that have held the white people as well as the colored people of the area in servitude to an outmoded social order. If it is hard to hear their voices over the raucous bellowings of the Orval Faubuses, the Ross Barnetts, the "Bull" Connors, the George Wallaces, they are beginning, nevertheless, to make themselves heard.

These men, the leaders of business and industry and the professions in a hundred southern cities, are the potential shapers of the South's future. In Little Rock, in Jackson, in Birmingham, in Atlanta—and even in advance of crisis in Raleigh and Charlottesville and Salisbury and many another town—these men have recognized reality despite the posturings of political leaders clinging to an impossible past.

And in the North as well, there are enlightened business and professional men who are well aware that the ghetto slums and the school dropouts and the closed doors of opportunity are a blight upon the whole community, not upon its Negro elements alone. These men can be mobilized, must be mobilized, to meet the most crucial social challenge of the day.

The President of the United States ought to appeal to these men and women all over America for support in a great undertaking. He can enlist the upwelling sense of decency and fairness among ordinary Americans in a crusade to rid this country, once and for all, of the poison of racial discrimination. He can set an example by the use of every power and instrumentality at his command to end discrimination in schools, in housing, in employment, in the right to vote. He must summon his countrymen now, while there is yet time, to the attainment of a peaceful revolution—and the avoidance of such disgraceful disasters as Birmingham.

If all this is done, if there is set before American Negroes not a vague promise of future concessions but a specific assertion of recognized rights at the highest level of political authority, then a little more patience can be exhorted, and the River Jordon can be crossed in harmony and order. This indeed would then become a promised land for all Americans, regardless of color.

STRICT BRITISH POLICY ON RED TRAWLERS CONTRASTS TO OURS

Mr. ROGERS of Florida. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.

Mr. ROGERS of Florida. Mr. Speaker, I am advised that a third Russian trawler penetrated U.S. territorial waters late last week. Several Florida fishing captains reported the vessel just off Hillsboro, Fla., at approximately 10:09 a.m., eastern standard time, last Thursday. One captain, reporting the trawler between his boat and the shore, took a sounding of 470-foot depth, indicating his position to be approximately 2½ nautical miles offshore. He then took a sounding of 450 feet at the position of the trawler after she had passed and estimated her position to have been 2⅜ nautical miles offshore. Indications show these depths to be within the 3-mile limit.

However, when the Coast Guard reached the trawler she had headed out to sea and was headed south some 5.5 miles offshore.

Mr. Speaker, the recurrence of Red trawlers entering U.S. coastal waters is becoming highly disturbing. The functions of these vessels may range from commercial fishing to fishing for such valuable intelligence data as the location of sunken vessels. It is known that the submerged wreckage of a hull provides submarines with excellent protection from radar. In any case, their mission is not in the interests of U.S. security.

And the United States is doing little about it. Compare our policies, if there are any, to those of the British. On April 19, the British press reported that British customs officers boarded a Soviet trawler entering British waters, and served her with a writ of attachment, in effect denying her permission to move until further notice.

At the same time, the royal navy was dispatched to protect the fishing rights of British vessels reportedly being crowded by Soviet trawlers in an area some 200 miles beyond the coastal limits of the British Isles.

I have urged that an investigation be held in the Congress to determine the weaknesses in our defense network, and what steps can be instituted to halt these activities. There is real cause for concern here, and I am hopeful that the Congress will realize the urgency of this matter before we allow the Soviets another advantage in this hemisphere.

SOVIETS FLOUT U.N. CHARTER

Mr. PELLY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.

Mr. PELLY. Mr. Speaker, the Soviet Union has flung down one more challenge to civilization. Moscow says it will decide what actions of the United Nations it will finance in the future. The question is, Will the United Nations let the Russians get away with this and allow the Soviets to continue voting in the General Assembly?

The United Nations Charter says any of its members who are delinquent in the payment of their share of the expenses more than 2 years shall have no vote.

Now the Soviet Union has served notice that it will not pay its share of the costs of maintaining order in the Congo and the Middle East. The Soviet Union, what is more, also says it refuses to pay its share of certain other items in the regular United Nations budget. Henceforth, the Russians say they will decide which functions of the United Nations they will support financially and that they will not finance any measure that does not have their explicit approval. As I said, the question is, Can the Soviets get away with this policy and continue as a voting member?

The United Nations Charter provides that—

> The expenses of the organization shall be borne by the members as apportioned by the General Assembly.

Also, as I said, the charter calls for suspension of the voting rights of any member who is more than 2 years in arrears.

Within a few months the Soviet Union will be more than 2 years in arrears. In other words, the time is at hand for a showdown. If efforts to persuade the Soviets to live up to the charter fail then the membership of the General Assembly must stand firm and disenfranchise the delinquent Russians, otherwise the United Nations will stand as a craven Communist-dominated organization which does not deserve the support of any nation, much less the United States.

Mr. Speaker, if this occurs much as I regret to suggest it, the United States should act accordingly and either reconstitute the United Nations without Soviet-bloc nations or withdraw entirely. There cannot be one nation flouting the charter. Thus, mankind faces a rude awakening from a glorious dream of a sometime peaceful world. Events are shaping up, if I may say so, as predicted by me last year when I opposed the legislation to authorize the President, by bond purchase or loan, to provide funds to pay the deficit of the United Nations. I told the House then that the bond purchase would only postpone the issue of the U.S.S.R.'s delinquency. It gives me no pleasure to say today: "I told you so." House Members who disagreed with me last year said the bonds would be paid by regular assessments of all United Nations members and the Soviets would be forced to pay their share when the loan was repaid.

Now, those who took this position and supported the President's request have the truth. The Kremlin only supports the United Nations when the U.N. supports the Kremlin.

Once again the United Nations faces a financial crisis as many of us predicted it would. But far worse, now we witness the flouting of its charter and the abrogation of its solemn covenant by Soviet Ambassador Fedorenko.

Either the United States and the other member nations stand firm and insist that the Soviets lose their vote or in the future we will be sustaining to a broken shattered instrument and impotent organization incapable of any future effective action because the Communists will have a ruble veto power over the General Assembly as it has a veto in the Security Council.

Mr. Speaker, I pray America stands firm.

DUAL COMPENSATION AND EMPLOYMENT: A REEXAMINATION OF THE FEDERAL DOCTRINE

Mr. HOSMER. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter and tables.

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

There was no objection.

Mr. HOSMER. Mr. Speaker, there is no disagreement anywhere concerning the fact that existing laws governing civilian employment of retired military personnel and the dual employment of civilians are harmful, obsolete, unfair, confusing, and difficult to administer. Moreover, it is agreed that they cause repeated cases of inadvertent hardship and injustice.

The difficulty lies in obtaining a meeting of minds on the method of correcting the situation. Being aware of the problem, I first introduced a bill in the 83d Congress to simplify and consolidate these laws, but no action was taken by the House Post Office and Civil Service Committee. Since that time I have introduced measures in the 85th, 86th, 87th, and 88th Congress. On February 14, 1963, I introduced H.R. 3816 which would repeal the dual-employment statute and amend the dual-compensation statute. The text of the bill and an analysis of its provisions are set forth later.

Why are the existing laws governing dual employment and dual compensation harmful? They deprive the Government of the services of certain highly trained retired military personnel whose technical skills, often acquired at Government expense, are in short supply and are needed in Federal agencies.

Their obsolete nature is shown by the fact that one law, enacted in 1894, was intended originally as a limitation on combined pension and salary but now serves to bar absolutely certain retired military personnel from nearly all Government employment. These horse-and-buggy-day statutes continue to jog along at the pace of the 19th century. What is needed is resolute action to clear these 40 some statutes off the books and give the Federal Government a simple law that meets the need of the jet age.

These laws are unfair, confusing, and difficult to administer, in that some categories of retired military personnel may not be employed at all; some may be employed subject to a $10,000 limitation on receipt of combined civilian salary and retired pay; and some may be employed by any agency without any limitation on combined compensation.

Further complicating the picture is the fact that it is often difficult to determine into which category an individual falls, leading to many Comptroller General decisions. The problems in administering the laws on civilian employment of retired personnel are further reflected in the introduction each year of private bills to relieve employees of debts owed to the United States and incurred by overpayment of military retired pay or civilian salary. The overpayments result from understandable errors in the interpretation of the 40 separate provisions of law and the 200-plus Comptroller General decisions which seek to interpret this tangle of statutes. There have been so many reversals of the Comptroller General decisions, as well as those of the Court of Claims, that no one has any idea how many decisions have stood, how much time has been wasted, or how much money has been spent.

In 1957, I presented to Congress a legal study entitled "Dual Compensation and Employment: A Reexamination of the Federal Doctrine." At that time, there were, according to the Civil Service Commission, "at least 35 dual employment and dual compensation statutes, the earliest being enacted in 1894, and the most recent in 1954." Since 1957, five additional laws have been enacted which contribute more confusion to the vast snarl of statutes.

Today I am presenting this updated legal study of the problem which was prepared with the assistance of Dr. Freeman W. Sharp, American Law Division, Library of Congress, who also compiled the information on which my earlier study was based. The assistance of Dr. Sharp is gratefully acknowledged. I am presenting it in detail, because I feel that it should be preserved in a public document readily available to the many persons now and in the future who will want to study it.

For the purposes of clarity and reference, this study is sectionalized under the following topical headings: "I. The Problem"; "II. Dual Employment of Military Retirees"; "III. The Federal Doctrine"; "IV. The Common Law and English Background of Officeholding"; "V. American Colonial and Postrevolutionary Ideas"; "VI. The Federal Constitution"; "VII. The Early Federal Period, 1789–1850"; "VIII. The Middle Period, 1850–74; "IX. Restatement and Revision, 1874–1924"; "X. The Test, 1924–62"; and "XI. The Solution, 1963":

DUAL COMPENSATION AND EMPLOYMENT STUDY—COMPILED BY DR. FREEMAN SHARP, AMERICAN LAW DIVISION, LIBRARY OF CONGRESS

I. THE PROBLEM

The shortage of trained personnel, to staff Federal departments and agencies, from typists to atomic scientists, has persisted from the beginning of World War II to the present day, a period of some 15 years. Competition for the services of those available has lead to the lowering of standards and the establishment of all kinds of makeshift devices without apparent effect upon the shortage. This has naturally caused Federal employment officers to eye a possible source of adequately trained personnel beyond their reach due to the laws prohibiting dual employment and dual compensation. In recent years an increasing number of bills have been introduced into the Congress to revise and liberalize those laws so that the Federal Government might obtain the benefit of that potential manpower without the return of the evils which those laws were designed to prevent.

The U.S. Civil Service Commission in a report on dual employment and dual compensation in the Federal service, dated June 1955, has outlined the situation respecting the restrictions (pp. 3–4):

"There are now in effect at least 35 dual employment and dual compensation statutes. The earliest of these was enacted in 1894, the most recent in 1954.

"These statutes are extremely complicated; some are overlapping, some are inconsistent, and a number are no longer realistic in light of present-day economic conditions. No central management agency has responsibility for their administration through policy guidance and regulations.

"This situation results in poor manpower utilization, continuing administrative problems for agencies, and injustices to individuals because of inadvertent errors.

"Because the statutes arbitrarily restrict employment, and are badly out of date, many exceptions are sought. In the absence of any administrative means, such exceptions (sometimes for one individual) are obtained through enactment of additional laws.

"The present dual employment and dual compensation statutes have the following principal effects on the hiring and utilization of Federal employees. In considering the dollar limits discussed, it is important to have in mind that the lowest rate payable under the Classification Act is now more than $1,800 per year. Under Public Law 763, 83d Congress, the lowest Classification Act rate, upon abolishment of the CPC schedule in September 1955, will be at least $2,500 per year. [Today the lowest rate is $2,690.]

"1. A civilian employee cannot hold more than one position at the same time, even while on leave without pay from one of them, if the pay rate for either position is $2,500 per year or more.

"2. When a person does hold two positions, such as two part-time positions, each having a salary of less than $2,500 per year, he cannot receive salary from both positions for the same period of time if the combined annual rate exceeds the rate of $2,000 per year.

"3. The following retired military personnel can hold civilian Government positions and continue to receive their retired pay without any limitations:

"(a) Retired enlisted personnel other than warrant officers;

"(b) Warrant officers who are retired for disability incurred in line of duty; and

"(c) Retired commissioned officers who are retired for disability incurred in combat or caused by an instrumentality of war in time of war.

"4. Commissioned officers and warrant officers who are retired for another reason than disability incurred in line of duty (nondisability retirees) cannot hold a Federal job if either the retired pay to which they are entitled or the salary of the position is $2,500 a year or more. This restriction cannot be avoided by waiving retired pay. An exception exists for Reserve officers retired (on the basis of age and service credits) under title III of Public Law 810, 80th Congress.

"5. Commissioned officers retired for disability, but not for disability incurred in combat or caused by an instrumentality of war in time of war, may hold any Government position and receive the full salary of the position, but they cannot receive their retired pay while receiving the salary if the combined rate would exceed $10,000 a year. If the retired pay exceeds $10,000 a year, the officer may elect to waive the salary and receive only his retired pay. Reserve officers retired under title III of Public Law 810, 80th Congress, are subject to this limitation.

"6. Many agencies which have special or unique problems in connection with dual employment have obtained exceptions to all or certain provisions of the statutes. Examples: Panama Canal Company, Canal Zone government, Post Office Department, Weather Bureau, Department of Agriculture, Census Bureau, Federal Civil Defense Administration, District of Columbia government, International Boundary and Water Commission (Department of State), and Central Intelligence Agency. These exceptions are con-

tained in a number of specific laws and appropriations acts."

* * * * *

II. DUAL CIVILIAN EMPLOYMENT AND MILITARY RETIREES

The contrast in the employment of civilians and employment of military retirees can be gleaned from the civil service report as follows (pp. 9 and 12–13):

"We have not been able to obtain data on numbers of civilian personnel employed in dual capacities, or numbers of applicants found ineligible for or unwilling to take Federal employment because of the dual employment-dual compensation restrictions. This information is not maintained by Federal agencies.

* * * * *

"Dual civilian employment

"Past thinking about changing the restrictions on dual employment of civilians has tended in the direction of arguing for greater freedom to hold more than one Federal job, particularly at the lower salary levels. However, sound personnel management indicates that dual job holding is acceptable practice only if it is consistent with efficiency and economy in Government operations. Such dual employment should be controlled so that it will not be so burdensome as to adversely affect employee efficiency, or be damaging to the employee's mental and physical well-being.

"Except under these circumstances, no employee should be permitted to hold more than one full-time job, or a combination of part-time work equaling more than a full-time job in terms of total hours worked. This is equally true at all salary levels. The rate of an employee's pay should not be a deciding factor in determining whether or not he should be permitted to hold more than one Government job.

"Employment of military retirees

"Civilian office holding by retired military personnel is not the same thing as dual civilian office holding.

"Only in a legal sense does receipt of military retired pay constitute office holding—no double work or conflict or work is involved. The Government's need for hiring retired military personnel generally differs from its need for dual employment of civilians in terms of type of job, salary level, and duration of employment. Military personnel often retire at a relatively early age, and with service-developed special skills. These factors combine to make their Federal civilian employment particularly valuable and feasible. These facts argue for a separate policy governing civilian employment of retired military personnel as distinguished from dual employment of civilian employees.

"The present restrictions on Federal civilian employment of retired military personnel are inconsistent and inequitable and have no relation to the Government's hiring needs. Gradually, various categories of military retirees have been exempted from the original prohibitions and restrictions. All enlisted men, certain commissioned officers, and some warrant officers retired from military service now may be hired for Federal civilian jobs without restriction on receipt of retired pay. At present certain officers retired for age and length of service remain as the only retirees who cannot hold Federal positions if either their retired pay or the salary of the position is $2,500 per year or more. Of the disabled commissioned officers, only those whose disability was not incurred in combat or caused by an instrumentality of war in time of war, are limited to a maximum combined rate of $3,000 per year.

"Tables I and II herewith, illustrate how the major restrictions on employment and compensation apply to the approximately 182,000 personnel on the military retired list as of October 1954:

"TABLE I.—*Federal civilian employment of retired military personnel* [1]

	Percent
"Enlisted personnel, disabled officers, reservists: Can hold Federal civilian job at any salary level	87
"Nondisabled officers: Virtually barred from holding Federal job because of $2,500 prohibition	13
Total	100

"[1] A search, as of May 1963, fails to reveal any later published statistics on a Government-wide basis. This table, according to the Civil Service Commission report, was based upon the 172,000 retired military personnel in civilian employment as of October 1954. It would seem reasonably arguable that changes in the number employed would not, on the average, greatly change the percentage figures.

"TABLE II.—*Compensation of retired military personnel if federally employed*

	Percent
"Enlisted personnel: No limit on combined salary and retired pay	52
"Disability commissioned officers: No limit if disability resulted from combat or instrumentality of war, otherwise $3,000 limit applies [1]	31
"Nondisabled commissioned officers, including reservists: $3,000 limit on combined annual rate of salary and retired pay [1]	17
Total	100"

"[1] The limitation of $3,000 has been increased to $10,000 by the act of Aug. 4, 1955, 69 Stat. 498, 5 U.S.C. sec. 59a, 1958 ed."

III. THE FEDERAL DOCTRINE

The Federal doctrine concerning dual employment and compensation, since it covers both public officers and employees, reaches historically all the way back to the common law.

The basic doctrine is presently stated in two sections of the United States Code, i.e., title 5, sections 58 and 62. Although as stated by the Civil Service Commission, supra, numerous statutes contain exceptions, etc.

Section 58 provides:

"Unless otherwise specifically authorized by law, no money appropriated by any act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum (R.S. par. 1763; May 10, 1916, c. 117, par. 6, 39 Stat. 120; Aug. 29, 1916, c. 417, 39 Stat. 582)"

Section 62 provides:

"No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specifically authorized thereto by law; but this shall not apply to retired officers of the Army, Navy, Marine Corps, or Coast Guard whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement (amended July 30, 1937, c. 545, par. 6, 50 Stat. 549; June 25, 1938, c. 694, 52 Stat. 1194; May 31, 1924, c. 214, 43 Stat. 245; July 31, 1894, c. 174, par. 2, 28 Stat. 205)."

It is the purpose of this report to trace the history of this doctrine and to indicate the practice thereunder as manifested in administrative and judicial decisions.

IV. THE COMMON LAW AND THE ENGLISH BACKGROUND

The common law placed no limit upon the number of offices which a person might hold at the same time provided that no one of them was incompatible with any of the others. The rule was well settled that "if two offices are incompatible, by the acceptance of the latter, the first is relinquished or vacant, even though it should be a superior office, *Milward* v. *Thacher*, 2 T.R. (D and E) 81; *Rex* v. *Pateman*, 2 T.R. (D and E) 777; *In re Dyer*, Dy. 158 b; *Rex* v. *Jones*, 1 B and Ad. 677; and *Rex* v. *Tizzard*, 9 B and C 418. For a detailed discussion of the common law see Mechein: "Public Offices and Officers," 1890, pp. 420–427 and Throop: "Public Officers and Sureties in Official Bonds," 1892, pp. 39–40.

The feudal system of the Middle Ages lay behind the concept of office holding. That system had been both a system of land tenure and a system of government. The tenure was not only applied to land but to many things connected with land including those governmental rights which went with such tenures. When kings desired to secure the performance of governmental functions they did not make a contract with a person to perform them, they granted him a right to perform them on certain terms. The profits of the office were then his. The office was regarded as a piece of property which gave the official certain rights and placed him under certain duties just as land gave the tenant certain rights and placed him under certain duties, *Vaux* v. *Jefferson* (1956), Dyer 144 b. Thus offices might be bought and sold like land.

This conception of the nature of offices and the position of officeholders came naturally to medieval common law because it had a very rudimentary law of contract and a very highly developed law of property in land and rights in land. As might be imagined abuses and corruption crept in. In the 16th and 17th centuries, more modern ideas were beginning but legislation which was passed to give effect to such ideas was ineffectual, see 5, 6 Edward VI, c. 16, sec. 1 (1551–52) and [British] Hist. Mss. Com. 13th report, part V, 17, No. 244 (1690) and same 14th report, part VI, 362 No. 710 (1692–93). With respect to judicial offices, it was not until the beginning of the 19th century that medieval ideas concerning the nature of an office were rooted out of the English judicial system, see detailed discussion of office holding upon which the foregoing is based in Holdsworth: "A History of English Law," volume I, pp. 246–264.

V. AMERICAN COLONIAL AND POST-REVOLUTIONARY IDEAS

When Englishmen moved to their colonies in North America they, of course, took their ideas with them including those with respect to offices. Two forces were at work, however, in the New World, i.e. English precedents and local conditions. From the interplay of these forces new ideas respecting officeholding evolved. The Pennsylvania Charter of 1682 provided that a person should hold only one public office at a time. No other Colony went so far.

Most simply provided that certain offices could not be held simultaneously: Sheriffs could not hold office in the colonial assembly, etc. In some colonies attorneys and clerks of courts were barred. Several, as Virginia, and New Jersey, required persons accepting salaried positions to stand for reelection in order to hold their place in the assembly.

In the Revolutionary period prohibitions respecting multiple officeholding were extended further. The Articles of Confederation (1777) provided that no person, being a delegate (to Congress), shall be capable of holding any office under the United States,

for which he, or another for his benefit receives any salary, fees or emolument of any kind (art. V). Although varying in detail, provisions against multiple officeholding became quite general. Most of the new State constitutions had sections requiring the three departments of the government to be kept separate and barring officers of one holding office in another. While the original purpose was probably to prevent encroachment of one department on another, the provisions were interpreted to prevent the simultaneous holding of offices in the different departments. Many States also adopted general provisions against holding two lucrative offices at the same time, see *Doyle* v. *Raleigh*, 89 N.C. 133. All States prohibited holding U.S. and State offices at the same time, see *Ryan* v. *Green*, 13 N.Y. 295. In one form or another, provisions were adopted by most of the new States to prevent incumbents from holding another office during the term of an office to which they had been elected. The most common of these was copied from the U.S. Constitution. For a detailed discussion of officeholding during this period see Miller: "Legal Qualifications for Office in America," 1619–1899, pp. 90, 103–104 and 145–150, upon which the foregoing statement is based.

VI. THE FEDERAL CONSTITUTION

Surprisingly enough the U.S. Constitution contains no prohibition against multiple officeholding with the exception of that in article I, section 6, clause 2:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a Member of either House during his continuance in office."

The lack of a general constitutional prohibition on multiple officeholding opened the door wide. We will see, in the early days of the Federal service, those charged with making decisions respecting multiple officeholding enunciating the principle that the law placed no restrictions on the number of offices held so long as they were not incompatible. Although the Constitution left the door wide open, it did not leave control and correction of such abuses as might occur beyond the powers of the Congress. It provided in article II, section 2, clause 2 that—

"Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the Heads of Departments."

Further, it gave to the Congress the broadest possible control over the disbursement of public moneys (article 1, section 8). That abuses crept into Federal officeholding and that control was needed is evidenced by the series of acts enacted by the Congress and the long series of opinions and decisions by the Attorneys General, the Comptroller General and the courts.

VII. THE EARLY FEDERAL PERIOD, 1789–1850

The early controversies took the form of claims for extra pay for extra duties. Examples of these were Bullus' case (1819) where a naval agent appointed for New York, whose duties were not defined by law, claimed extra compensation for being required to purchase and forward from New York supplies for the lake service (1 Op. Atty. Gen. 302) and Governor Cass' case (1828) where the Governor of Michigan was employed to perform services which did not belong to his duty as Governor. His claim was upheld on the principles of a quantum meruit (2 Op. Atty. Gen. 189). As a result of such claims provisions were included in a series of appropriation bills as follows:

1. The Civil and Diplomatic Expenses Appropriation Act, 1839 (5 Stat. 349, sec. 3):

"That no officer in any branch of the public service, or any other person whose salaries, or whose pay or emoluments is or are fixed by law and regulations, shall receive any extra allowance or compensation in any form whatever for the disbursement of public money, or the performance of any other service, unless the said extra allowance or compensation be authorized by law."

2. The Civil and Diplomatic Expenses Appropriation Act, 1842 [5 Stat. 487 (item no. 200)]:

"That no allowance shall be made, out of any moneys appropriated by this bill, to any clerk or other officer for the discharge of duties, the performance of which belongs to any other clerk or other officer in the same or any other department; and that no allowance shall be made for any extra services whatever, which any clerk or other officer may be required to perform."

3. The Army and Military Academy Appropriation Act, 1842 [5 Stat. 510, sec. 2]:

"That no officer in any branch of the public service, or any other person whose salary, pay, or emoluments, is or are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or any other service or duty whatsoever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance, or compensation."

4. The Incidental Expenses Appropriation Act, 1842 [Stat. 525, sec. 12]:

"That no allowance or compensation shall be made to any clerk or other officer, by reason of the discharge of duties which belong to any other clerk or officer in the same or any other department; and no allowance or compensation shall be made for any extra services whatever, which any clerk or other officer may be required to perform."

After the enactment of these acts such claims were disallowed. (See 3 Op. Atty. Gen. 422, clerks for selling Indian lands; same, p. 473, "Messengers and Watchmen"; same, p. 621, War Department clerks for business connected with Indian reservations; see also 4 Op. Atty. Gen. 126–128, Navy officers for an exploring expedition; same, p. 138, officers at West Point; same, p. 342, Navy officers for distant duties; same, p. 463, Pension Office clerks for acting as secretary to commissioners appointed to treat with the Indians; and Acting Secretary of State, 5 Op. Atty. Gen. 74.)

This period might be characterized as the extra compensation period. Job descriptions, where they existed, were ill defined and lines of demarcation between them obscure. An officer or employee might find himself responsible for performing many unrelated duties for which he might demand and receive extra compensation. Today, many of the unrelated duties would have constituted separate jobs or offices. Even in that period some did constitute separate jobs or offices to which the officer or employee held separate appointments, see Bullus' case, Governor Cass' case, the Navy Officers' case and the Pension Office Clerks case, cited supra. However, the question of the right of the officer to perform the additional duties or to hold the additional office does not seem to have been questioned in this period. The right to receive extra compensation appears to have been the only question litigated. Congress dealt with the question through the enactment of the appropriation acts of March 31, 1839, May 9, 1842, August 23, 1842, and August 26, 1842, supra. The net effect of the congressional action could be summed up in the words of Attorney General J. Y. Mason in the Pension Office Clerks case (1846), supra, as follows:

"The Executive, under the recent opinions from this office and the judiciary, in the case of the *United States* v. *Eleason's Administrator* (16 Peters.) is required to see that these laws are construed and executed according to the plain intention of Congress. This was to put an end to a practice which had long prevailed of salaried officers receiving compensation, over and above their salaries, for services which were not regarded as within the range of his official duties."

VIII. THE MIDDLE PERIOD, 1850–74

The refusal to allow payment under the guise of extra compensation for what was in effect two offices, squarely pointed up the question of the right to hold two or more offices and to receive pay for each. What appears to have been the first legislative decision specifically on this question occurred as a result of the claims of Richard Rush, then Secretary of the Treasury, for compensation for occasional services performed between the years 1825 and 1829 as Attorney General ad interim by designation of the President during the absence of William Wirt, Attorney General (6 Op. Atty. Gen. 83). The President's authority to so designate Rush was contained in the Acts of May 8, 1792, and February 13, 1795 (1 Stat. 281, sec. 8; 451). In 1850 Congress included an item in the Civil and Diplomatic Appropriation Act, 1851, specifically compensating Rush for the services performed but added a proviso (9 Stat. 542–3) as follows:

"That hereafter the proper accounting officers of the Treasury, or other pay officers of the United States, shall in no case allow any pay to one individual the salaries of two different offices on account of having performed the duties thereof at the same time. But this prohibition shall not extend to the superintendent of the executive buildings."

This proviso would seem on its face to make it clear that, with the exception of executive building superintendents, an individual could not receive salaries for two offices held by him at the same time.

However, Attorney General Crittenden in 1851 held otherwise (5 Op. Atty. Gen. 765). By an act of 1807 (2 Stat. 413, ch. 8), the President had been authorized to survey the coasts of the United States and to employ persons for that purpose. He delegated this power to the Secretary of the Treasury. In 1844 (5 Stat. 660, ch. 37), the Secretary was authorized to sell the maps and charts of such surveys and in March 8, 1850, hired one, Gilbert Rodman, to perform these duties at an annual salary of $400. While so acting Rodman was also a clerk in the Treasury Department at a salary of $1,400 per annum. The opinion of Attorney General Crittenden was that Rodman was entitled to hold both offices and to receive the salary of each. The Attorney General reasoned thusly (5 Op. Atty. Gen. 776, 768):

"The statutes of 3d March, 1839 (V. stat. at large, p. 439, chap. 82, sec. 3d) enacts:

" 'That no officer in any branch of the public service or any other person, whose salaries or whose pay or emoluments, is or are fixed by law and regulations, shall receive any extra allowance or compensation in any form whatever, for the disbursement of public money or the performance of any other service, unless the said extra allowance of compensation be allowed by law.'

"The act approved 23d of August, 1842 (V. stat. at large, p. 510, chap. 183, sec. 2) enacts:

" 'That no officer in any branch of the public service or any other person, whose salary, pay or emoluments, is or are fixed by law or regulation, shall receive any additional pay, extra allowance or compensation in any

form whatever, for the disbursement of public money or for any other service or duty whatsoever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance or compensation.'

"These two sections of the statutes are, in words, nearly the same, in sense and meaning, identical—the latter being only a repetition of the former. The extra allowance or additional pay forbidden by these sections is that exceeding the salary, pay or emoluments, which was fixed by law or by a regulation, officially made by the President or by the head of a department, or by an officer of the Government, having competent authority to make such regulation. At the passage of these acts, there was no law forbidding any person from holding under the Government of the United States, two compatible offices or employment at one and the same time, and receiving the salary and emoluments belonging to each of the offices, whether fixed directly by law, or by a regulation made by a person lawfully authorized to make it. These sections do not forbid it. They are intended to fence against arbitrary extra allowances in each particular case; but do not apply to distinct employments with salaries or compensation affixed to each by law or by regulation.

* * * * *

"The 12th section of the act, approved 26 August 1842 (vol. 5, of stat. at large, p. 525, ch. 202), enacts: 'That no allowance or compensation shall be made to any clerk or other officer, by reason of the discharge of duties which belong to any other clerk or officer in the same or any other Department; and no allowance shall be made for any extra services whatever, which any clerk or other officer may be required to perform.'

"This act does not prohibit the same person from holding two different offices at one and the same time, nor from receiving the compensation fixed, by law or regulation, to both offices, respectively, if he holds both offices, and performs the duties of both. In such case, the officer, so holding the two offices, is not, when officiating each and either, performing the duties of any other officer or clerk; he is performing his own duties, and in receiving the compensation affixed to each, he is receiving pay for his own proper services in his own proper offices respectively, and not pay for the services which should have been performed by any other clerk or officer, nor for extra services, but for the proper services belonging to his respective offices and proper employments.

"The opinion given by Chief Justice Taney, before cited, makes the holding of two offices and performing the duties of both at one and the same time, an exception from the prohibitions of this statute of 26 of August 1842, as well as from the two previous statutes of 23d August 1842, and 3d March 1839; he makes no discrimination between the provisions of the statutes of 23d August and 26th August 1842; but classed them together as the acts of 1842. There is, in truth, no difference in the sense and meaning of the three several acts before quoted.

"Neither does the act of 30 September 1850 (session acts by Little and Brown, ch. 90, pp. 542–543), prohibit the holding of two compatible offices by the same person, or the payment to him of the fixed salary or compensation of each of his offices. That was not the mischief intended to be guarded against: for indeed, it might often happen that it would be most convenient and conductive to public economy, as well as to the public service, to confer two offices on the same person. The provision of the act, last referred to, is in these words: 'That hereafter, the proper accounting officers of the Treasury, or other pay officers, of the United States, shall in no case allow any pay to one individual the salaries of two different offices, on account of having performed the duties thereof at the same time. But this prohibition shall not extend to the superintendents of the executive buildings.'

"The plain meaning of this seems to be that an individual holding one office and receiving its salary, shall, in no case, be allowed to receive also the salary of another office, which he does not hold, simply 'on account of his having performed the duties thereof.'

"The prohibition is against his receiving the salary of an office that he does not hold, and not against his receiving the salaries of two offices, which he does legitimately hold.

"If it had been the intention of Congress to prohibit, in all cases, the holding a plurality of offices, that purpose could have been easily and directly expressed. The language they have used imports no such purpose, but is directed at an object and abuse, distinct and separate.

"The case of Gilbert Rodman does not, according to my view of the subject, come within the prohibitions of any of the above cited statutes."

The following year a provision was included in the Civil and Diplomatic Expenses Appropriation Act, 1853 (act of Aug. 31, 1852, 10 Stat. 100) which provided as follows:

"SEC. 18. *And be it further enacted*, That no person hereafter, who holds or shall hold, any office under the Government of the United States, whose salary or annual compensation shall amount to the sum of $2,500, shall receive compensation for discharging the duties of any other office."

This provision, in identical language, had been included as section 7 in the original appropriation bill reported to the House on February 5, 1852, by the Ways and Means Committee (H.R. 196, 32d Cong., 1st sess., no written report). This provision appears to have passed the House without debate as section 9 of the bill. A brief glimpse, however, of the evils aimed at is afforded by the debate on a somewhat similar proposal to limit a proposed salary increase to only one salary where double salaries were involved. Attorney General Crittenden's opinion of 1851, supra, was also criticized (Congressional Globe, 32d Cong., 1st sess., pp. 2165–2166):

"Mr. DEAN. I move the following proviso, by way of amending to the amendment:

"'*Provided*, That this section shall not extend to any person receiving a salary for discharging the duties of more than one office at the same time, or to any person who does not actually discharge the duties of the office for which he receives such salary, or to any person engaged in prosecuting any claim before any of the Departments or Congress; and that in case any paying or accounting officer of the Government shall pay said additional percentage to any such person, it shall be a misdemeanor in the person knowingly paying or receiving such additional percentage, rendering him liable to indictment, and punishment by fine and imprisonment.'

"Mr. CHAIRMAN. I am not disposed strongly to resist the proposition of the gentleman from Tennessee [Mr. GENTRY], to add to the remuneration of the clerks who are legitimately engaged in the various departments of the Government. I have no doubt there may be instances where that remuneration should be increased, and if the section can be so guarded that the heads of departments and of bureaus cannot further abuse the power now in their hands, I shall vote for it. If I am correctly informed, however, there are individuals now, pets of the heads of departments, who, in the face of laws which have been passed, commencing in 1842, and re-enacted year after year since, are receiving the salaries of at least three offices, the duties of none of which they adequately discharge.

"Mr. GENTRY. I know the objection which the gentleman states is an objection with many, and, as a consequence, an argument for voting against this additional compensation; but we cannot correct executive abuses. It is our duty to put it in the power of the executive government to do right, and to impeach them if they do wrong.

"Mr. DEAN. I want to guard the proposition of the gentleman, so that no head of a department of this Government, or head of an executive bureau, can pay to his sons, nephews, cousins, or favorites, salaries to the amount of $2,000, $3,000, or $4,000 each. By the passage of the gentleman's proposition without a provision of the character I have indicated, we shall increase the salaries of these pets to a greater extent. If there be any proper object for the increase of the salaries, it is to enable those men permanently engaged as clerks in the various departments of the Government in this city with families, to support them with respectability; it is not for the purpose of increasing salaries, but to reward labor adequately, and for that only can I support it.

"Another abuse will be corrected by that proviso, very prevalent, I am informed, in the departments—the allowing of persons to take a clerkship at $4 per day, who hire, for the discharge of its duties, other individuals at $1 per day, while they spend their time around the hotels, the gambling houses, or the lobbies of Congress to press claims through here or smuggling them through the departments. My provision is designed to reach cases of that kind. If there be any, it will prevent their continuance and repetition. If there be none, there will be no harm in the adoption of the amendment. It is intended, also, not only to reach those paying, but those receiving two salaries. There is an express law, passed in 1850, prohibiting any person from receiving two salaries except the Superintendent of Public Buildings. I understand the Attorney General, the law officer of this administration, has given it as his opinion that there is no objection whatever to the giving of a man two salaries. How he could give such an opinion I cannot understand. The Secretary of State and the Attorney General, within the last year, have given their certificate to a man as entitled to $3,000 for doing nothing, or discharging the duties of an office which did not exist, while he was at the same time receiving $2,500 for another office. I desire to have it provided by law that any person who shall receive more than one salary shall be liable to indictment. That is the only way in which the evil can be eradicated. If my amendment be adopted, I am willing, as a temporary expedient, to vote for this or some increase of compensation. I believe the expenses of living have increased here as well as in other places; but still, sir, it will be an unpleasant matter for us to meet our constituents, and to tell them we are voting increased salaries to clerks in Washington, while clerks in the various offices of our counties receive only $500 salary, and yet lay up a portion of that. This amendment should not apply to young men, who have no families, receiving a salary exceeding $1,000 per annum. If that will not support them, I fear their expenses are not such as we should countenance or encourage.

"Mr. GORMAN. I am opposed to this amendment. I have had occasion to look into the opinion of the Attorney General upon the subject of paying the officers of the Government, when they perform the duties of two offices. I had occasion in the last few days to present the question before the Second Comptroller of the Treasury, and give my views, humble as they were, at some length. The Second Comptroller decided, as indeed the former Comptroller has decided, that no person, under the existing law, can receive pay in two capacities. He has decided, if a clerk or other officer of the

Government shall perform the duties of any other trade or office, that he cannot thereby get the additional pay. That decision has been made, I say, by the Comptroller, and the Comptroller of the Treasury has overruled, to some extent, the decision of the Attorney General heretofore made. But the Attorney General has not decided the point in the manner in which the gentleman states it. He has decided that an individual cannot draw the pay for two offices; but where a person is in any office, and is detailed to the discharge of other duties not incompatible with the duties of that office, he may receive pay for the duties to which he is detailed."

The salary increase and the limitation passed the House as section 2 of the bill and in fact was enacted with some slight modification as section 2 of the act (see 10 Stat. 97).

The Senate Finance Committee proposed to eliminate the $2,500 double salary limitation which had passed the House as section 9 of the bill. The committee appears to have made no written report. In reading the bill for amendment, the Senate eliminated section 9 and inserted other matter in lieu without debate, (Congressional Globe, p. 2371), thus striking out the $2,500 double salary limitation. A detailed search of the proceedings of the Senate from that point through the adoption of the conference committee report by both Houses (Congressional Globe, 32d Cong., 1st sess., pp. 2371–2477) has failed to reveal exactly how the excluded language reappeared in the bill as approved by the President (10 Stat. 100, sec. 18, supra).

The original copy of the bill as enacted by the two Houses and sent to the President and which was signed by him contains section 18 as set out in the Statutes at Large. It can only be assumed that the conference committee restored the stricken language as section 18 without specifically mentioning it in their report. There seems to have been some pressure upon the conference committee respecting a time deadline which may account for an omission in the conference report due to haste (Congressional Globe, 32d Cong., 1st sess., p. 2472):

"Mr. HOUSTON. I wish to make a report from the committee of conference upon the disagreeing votes of the two Houses upon the civil and diplomatic bill. I will state, in addition to other reasons for desiring to advance that bill as rapidly as possible, that it may be enrolled in time, I understood from one of the Senators upon the committee of conference, a few moments ago, that he had received a line from the President, saying that it would be impossible to look over the bill unless we act hastily upon it; and he made a special request that an expeditious course should be pursued with it. I call the previous question."

The rest of this period was marked by a series of opinions rendered by the Attorney General which guided the disbursing officers of the Government respecting dual office holding and salaries. The first of these was rendered by Attorney General Cushing in Hardin's case on August 18, 1853 (6 Op. Atty. Gen. 80). Hardin held two offices in the Navy Department, one as clerk and the other as superintendent of the southwestern executive building. The question arose concerning his entitlement to the salary increase provided in the act of August 31, 1852, which had been limited therein to one salary for those with more than one office. In the course of his reasoning with respect to the pay raise, Cushing commented on the question of holding two offices and receiving two salaries thus:

"It is observable, on the very surface of the inquiry, that the act of 1852 explicitly assumes that persons exist, within the purview of the act, who hold two separate offices, discharge their distinct duties, and lawfully receive their different salaries. The words are, 'This section shall not extend to more than one salary of any person receiving a salary for discharging the duties of more than one office at the same time.'"

It should be noted that Cushing is referring to the pay raise section of the act (sec. 2) and not to the $2,500 double salary limitation in section 18. It is rather curious that he does not also mention the latter section in connection with this point.

Cushing also considered the Rush proviso in the act of September 30, 1850, supra, but limited its application strictly to situations involving the temporary performance of duties of another office by designation of the President. He then quoted the opinion of Chief Justice Taney of the Supreme Court, then on circuit in the U.S. Circuit Court, District of Maryland, in the case of *U.S.* v. *White*, Fed. Cas. No. 16, 684 (1852). Chief Justice stated that "there is no law which prohibits a person from holding two offices at the same time." Cushing stated that the Chief Justice had expressed this opinion with the acts of 1839, 1842, and 1850 before him as the very subject of consideration. Cushing was obviously right with respect to the acts of 1839 and 1842 respecting extra compensation; however, a reading of *U.S.* v. *White* reveals that the facts do not bear him out with respect to the act of 1850 and the Rush proviso. *U.S.* v. *White* was filed in the circuit court on March 25, 1850, and dealt with matters occurring before that date. The act of 1850 was not enacted until September 30, 1850, and its application to *U.S.* v. *White* would have been ex post facto. Nowhere in the opinion does the Chief Justice refer to the 1850 act and in fact at the outset states that the case is governed by the acts of 1839 and 1842.

Attorney General Crittenden's opinion in the Rodman case, supra, on the question of two salaries and two offices was cited with approval by Cushing who then closed his own opinion by deciding that the salary increase could be applied to only one of Hardin's salaries.

The next opinion which specifically dealt with the question of dual offices appears to be that in Major R. B. Lee's case, 8 Op. Atty. Gen. 352 (1857). Major Lee was treasurer of a board appointed under the Army Appropriation Act of August 31, 1852 (10 Stat. 108) to pass on the claims for supplies furnished to the command of Captain Fremont in California. The board employed a War Department clerk to serve also as its clerk and proposed to compensate him for such service. The question in the case was whether such compensation could be allowed in the accounts of Major Lee. In his opinion, Attorney General Cushing, inquired first whether there was any provision of law which forbade the same person holding two distinct offices. This question was answered by him as follows:

"I am not aware of the existence of any such provision. A clause of the act of September 30, 1850, forbids the allowance to one individual of the salaries of two different offices, on account of having performed the duties thereof at the same time (IX Stat. at Large, p. 542). This provision has been construed by my immediate predecessor (Mr. Crittenden) and also by Chief Justice Taney, as not applying to the present question. It means, that a person, holding one office, shall not receive the salary of another, which he does not hold, but of which he merely performs the duty, by temporary appointment, in place of the proprietor of the office. (See Opinions, vol. v, p. 765; and vol. vi, p. 84.)

"Indeed, more than one of the provisions of statute in question expressly speaks of the same person as holding two distinct offices. (See act of August 31, 1852, s. 2 and s. 18, X Stat. at Large, p. 97 and 100.)"

It should be noted that Mr. Cushing was still in error respecting the opinion of Chief Justice Taney. The rest of his opinion deals with the question of extra allowance and the act of 1842. He reached the conclusion that Major Lee's case involved a separate office under distinct authority, and that the dual salaries might be allowed.

By 1857, Attorney General Cushing had been succeeded by J. S. Black. During Black's incumbency the question arose again in Stackpole's case (9 Op. Atty. Gen. 123). Stackpole was a watchman at the President's House who claimed dual compensation for services as assistant doorkeeper. Attorney General Black considered the questions of extra compensation and dual officeholding, and reviewed the series of statutes enacted by Congress beginning in 1839, including the Rush proviso of 1850 and the $2,500 limitation of 1852. He stated further:

"A consideration and comparison of these acts plainly show that each of them had a specific aim and purpose. The act of March 3, 1839, was designed to put an end to the system of extra allowances and compensation, which, under various pretexts, were claimed by officers and employees for extra services in their respective offices or departments. Going a step further, the act of May 18, 1842, cut off extra pay for performing the duties of any other clerk or officer either in the same or any other department. A blow at the whole system of extra pay and double compensation was then struck by the act of August 23, 1842, by forbidding any extra pay or additional compensation, in any form whatever, to officers or persons having fixed salaries, for any other services whatsoever, unless on specific appropriation, explicitly setting forth that it was for such additional pay. But notwithstanding the comprehensive terms of this act—it having been held in the spring of 1850, by the circuit court of Baltimore, in White's case, that where one officer had performed the duties of two offices at the same time he might claim the salaries of both—the act of September 30, 1850, prohibited the payment of the salaries of two offices to one individual. There still remained, however, another class of officers who were receiving, or claiming, double pay—those; namely, whose salary or compensation was not fixed by law or regulation, but depended upon the amount of service or other contingency. Upon these the act of 1852 operated, by the provision that where the salary or annual compensation of an office amounted, in the aggregate, to $2,500 per annum, no pay for discharging the duties of any other office should be allowed him.

"The whole of this legislation manifests a determined purpose to prevent double compensation in any form, or under any pretext whatsoever. It cannot be denied that the policy which dictated these provisions is founded on just notions of public and private morality. Plurality of offices, and extra allowances to those who hold them, are the vices of a bad government, and have always prevailed to the greatest extent in the worst times. It may be that some officers have performed double duty for which they are justly entitled to additional compensation. In these cases, I do not doubt that proper provision will be made by Congress; but the justice of a claim cannot authorize its payment by the executive while the law forbids it."

With respect to Stackpole, Black noted the exceptions of watchmen and messengers in the act of 1842 and of superintendents of public buildings in the act of 1850. He therefore concluded that Stackpole came within the exceptions. He concluded in general, however—

"That no officer of the Government, having a salary fixed by law, nor no other officer whose compensation amounts to $2,500 per annum, can receive extra pay for any serv-

ice whatever, whether it be within the line of his duty or outside of it. Nor is it possible for any such officer to receive the salaries of more than one office, no matter under what circumstances he may have performed the duties of more than one."

The next year Black considered the case of a court clerk who had held both the office of clerk of the district court and of the circuit court (9 Op. Atty. Gen. 250). Officers of this class have no fixed salaries but are entitled to retain a percentage of fees and emoluments. It should be pointed out that such offices had not been included in the provisions of the act of 1842 because of separate and distinct provisions enacted in another part of that act with special reference to the judiciary. The provisions in the act of 1842 had been reenacted as section 5 of the act of February 26, 1853 (10 Stat. 165), in substantially the same form:

"No clerk of a district court or clerk of a circuit court shall be allowed by the said secretary to retain of the fees and emoluments of his said office, or in case both of the said clerkships shall be held by the same person of the said offices, for his own personal compensation, over and above the necessary expenses of his office and necessary clerk hire included, also to be audited and allowed by the proper accounting officers of the Treasury, a sum exceeding three thousand five hundred dollars per year for any such district clerk or circuit clerk."

As pointed out by Black, the question of entitlement to the fees and emoluments of offices held at the same time had been settled by Mr. Justice Story in *U.S.* v. *Bassett,* Fed. Cas. No. 14539 (1843). In that case Mr. Justice Story had decided that the defendant who had held two offices in Massachusetts was entitled to retain the maximum compensation which the law would have given if such offices had been held by different persons. In view of the fact that judicial offices appear to be covered by special provisions they need not be considered further unless they should at a future date come under the general provisions.

Chief Justice Taney again came into the picture in the case of *Converse* v. *U.S.,* 62 U.S. 463 (1858). In that case the Collector of Customs had been directed by the Secretary of Treasury to perform extra duties in connection with disbursements for the Lighthouse Service, not only in his own customs district, but throughout the United States. On the death of the customs collector, a claim was brought against his estate for some $17,000, which he had retained as fees for the performance of this service. As Collector of Customs, his salary was fixed. Justice Taney in his opinion stated:

"The just and fair inference from these acts of Congress, taken together, is, that no discretion is left to the head of a department to allow an officer who has a fixed compensation any credit beyond his salary, unless the service he has performed is required by existing laws, and the remuneration for them fixed by law. It was undoubtedly within the power of the department to order this collector, and every other collector in the Union, to purchase the articles required for lighthouse purposes in their respective districts, and to make the necessary disbursements therefor. And for such services he would be entitled to no compensation beyond his salary as collector, if that salary exceeded $2,500."

He then pointed out that the Secretary was not bound to entrust these services to the several collectors, but might require the whole to be performed by a single agent. This was the action actually taken by the Secretary. With respect to this, Judge Taney stated:

"Undoubtedly, Congress have the power to prohibit the Secretary from demanding or receiving of a public officer any service in any other office or capacity, and to prohibit the same person from accepting or executing the duties of any agency for the Government, of any description, while he is in office, and to deny compensation altogether, if the officer chooses to perform the services; or they may require an officer holding an office with a certain salary, however small, to perform any duty directed by the head of the department, however onerous or hazardous, without additional compensation. But the legislative department of the Government have never acted upon such principles, nor is there any law which looks to such a policy, or to such unlimited power in the head of an executive department over its subordinate officers.

"No explanation is given of the principle upon which the $400 additional compensation was allowed. If the services were regarded as extra and additional, and within the prohibition of the law, then he was not entitled to this additional allowance, because his salary exceeded $2,500, and nothing more than the salary fixed ought to have been allowed him. But if they were not within the prohibition, but for services in a different agency, then he was entitled, not merely to $400, but to the commissions fixed by law. This sum could not have been allowed for supplies in his own district, excluding those for other districts, because, as regards his own district, there is an express prohibition as above stated. We, however, express no opinion upon that particular item; and whether it is a proper allowance or not, must be determined by the circuit court, when it hears the evidence at the trial.

"For the reasons above stated, the judgment of the circuit court must be reversed."

The question of dual compensation, was raised again in 1860 in Brown's case, 9 Op. Atty. Gen. 507. Brown, at different periods, held various diplomatic and consular offices in Turkey, including that of dragoman and vice consul. Attorney General Black held that according to the decision in the Converse case, a person holding two compatible offices or employments under the Government is not precluded from receiving the salaries of both by anything in the General Laws prohibiting double compensation. Subsequently Brown was appointed consul-general and in addition discharged the duties of secretary of legation and dragoman. In contrast to the prior situation, where Brown had exercised the duties of several offices to which he had been appointed, Black held that where he had been appointed consul general and merely discharged the duties of secretary of legation and dragoman, without a special appointment thereto, he was not entitled to additional compensation under the $2,500 prohibition in the act of August 31, 1852. Still later, Brown was appointed secretary of legation and dragoman and continued to act as consul general without a regular appointment. Black stated then that he was to receive salary for the two appointments as secretary of legation and dragoman, but not for performing the duties of consul general.

Attorney General Bates, in Whiting's case, 10 Op. Atty. Gen. 435 (1863) attempted to bring some order into the confusion existing by reason of the growth of majority and minority schools of thought respecting dual officeholding and salaries. Whiting had been appointed clerk in the Interior Department, at a salary fixed by law, to deal with matters respecting the act to suppress the slave trade. He was also appointed by the Secretary of the Interior as a clerk to deal with matters relative to Capitol extension and a new dome, at a small salary fixed by the Secretary. The majority school comprised Attorneys General Grundy, 3 Op. 422, ibid., 473; Gilpin, 3 Op. 621; Legare, 4 Op. 126, ibid. 149; Nelson, 4 Op. 432; Mason, 4 Op. 464; Toucey, 5 Op. 74; and Black, 9 Op. 123. Legare had stated the basic reasoning and conclusion of the majority to the effect:

"The policy of the act of 1839 and several other statutes on analogous subjects is, to deprive the executive department, first, indirectly to raise salaries by extraordinary allowances; and, second, to create pluralities in favor of incumbents in office. Should any necessity arise for either of these deviations from the spirit and practice of our Government, it must be acknowledged by some act of Congress, expressly making provision for them."

Bates also quoted a paragraph from the opinion of Black in Stackpole's case, supra, pointing out that the whole of the legislation manifested a determination to prevent dual compensation in any form or under any pretext whatsoever; that plurality of offices and extra allowances are the vices of a bad government. The minority school of thought was composed of Attorneys General Crittenden (5 Op. 765) and Cushing (8 Op. 325), who concluded that these statutes did not forbid the holding of two distinct offices or appointments by one person; that the prohibitions on extra allowances and additional pay meant extra service pay, or allowance in some office, and not distinct service in separate offices.

Bates applied *Converse* v. *U.S.,* supra, to Whiting's case. He pointed out that the Converse case was not in harmony with the opinions of the majority, but that nevertheless the Court did not go so far in the other direction as Crittenden and Cushing had gone. The Court construed the statutes so as to allow compensation for services in the additional office, only in case such services are required by law and the compensation therefore fixed by law. He stated:

"After reviewing the acts I have cited, the Court say: 'The just and fair inference from these acts of Congress, taken together, is that no discretion is left to the head of a department to allow an officer who has a fixed compensation any credit beyond his salary, unless the service he has performed is required by existing laws, and the remuneration for them fixed by law.'

"This is the latest and most authoritative construction of these statutes, and having been adopted with all the light which the discussions to which I have referred shed upon the subject, I think it should be accepted as the rule for the decision of these frequently recurring and often difficult questions of additional compensation to public officers."

Under this conclusion, Whiting was not entitled to compensation for services in connection with the Capitol extension where the salary had not been fixed by law but by the Secretary.

On the same basis, Bates decided White's case, 10 Op. Atty. Gen. 442. White, a clerk in the General Land Office, had also been appointed Assistant Secretary to sign land patents, by appointment of the President under the act of Congress which did not fix the compensation for such an appointment. He also decided French's case, 10 Atty. Gen. 444, in accordance with the ruling in Whiting's case. On the day following these decisions the question of the offices of register of wills for Washington County and commissioner of police, and the offices of member of the Levy court, commissioner of police, and Collector of Internal Revenue for the District of Columbia were decided favorably to the encumbent. The compensation of these various offices was fixed by law (see 10 Op. Atty. Gen. 446).

In 1868 Evarts, then Attorney General, was called upon to decide the case of Secretary of the Interior Browning, who had been authorized by the President as the head of the Interior Department, to act as Attorney General ad interim under the act of 1863 following the resignation of Attorney General

Stanbery. This, of course, was the Rush proviso situation again, act of September 30, 1850. On examination of the act of February 20, 1863, which authorized the President to make ad interim appointments, Evarts found a very strong implication that Congress intended to make it the official duty of each head of department to perform functions of another executive department when called upon by the President, in the case of a vacancy in the latter office or inability of its chief to discharge his duties. Evarts concluded that independent of the act of September 30, 1850 (the Rush proviso), Secretary Browning was not entitled to receive the salary of the office of Attorney General, but that in any event, the act of September 30, 1850, was a bar to the receipt of such salary.

U.S. v. *Shoemaker*, 7 Wall. 338 (1868) involved the question whether a customs collector could receive extra compensation for duties in connection with the erection of a new Marine hospital and customs house within his own district. Mr. Justice Nelson, in a brief opinion, pointed out that the difficulty was "that there is not only no law providing for compensation, but the collector is forbidden to receive it." (Act of May 7, 1882, sec. 18.) The duties even within his own district fell within the prohibitions of the acts of 1822 and 1839, as interpreted in the Converse case.

Stansbury v. *U.S.*, 8 Wall. 33 (1868). Stansbury, being at the time a clerk in the Department of Interior, was appointed in 1851, by the Secretary of the Interior as an agent to proceed to Europe and to prepare an account of the London Industrial Exposition for that department. During all the time he was engaged in London and subsequently in Washington, a term of 17 months, he drew his pay as a clerk. The Secretary had promised in writing to pay his expenses and to allow him a reasonable compensation for his services. The actual expenses were paid but on his return, a new Secretary having been appointed, the new Secretary declined to pay him anything more. Stansbury then brought suit in the Court of Claims which decided that his claim was barred by the act of August 23, 1842. Mr. Justice Davis, in his opinion pointed out that no authority of law existed for the promise by the Secretary neither was there any appropriation authorized, nor was the Secretary authorized by Congress to create such an agency to perform such service. He thereupon cited section 2 of the act of August 23, 1842, prohibiting extra compensation.

IX. RESTATEMENT AND REVISION. 1874–1924

The various provisions with respect to dual and extra compensation which have been enacted by the Congress starting in 1839 were included in the general revision and publication of the laws in force December 1, 1873, known as the Revised Statutes of the United States. The first edition of the Revised Statutes was approved June 22, 1874. The dual and extra compensation provisions were condensed into sections 1763–1765 as follows:

"SEC. 1763. No person who holds an office, the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law.

"SEC. 1764. No allowance or compensation shall be made to any officer or clerk, by reason of the discharge of duties which belong to any other officer or clerk in the same or any other department; and no allowance or compensation shall be made for any extra services whatever, which any officer or clerk may be required to perform, unless expressly authorized by law.

"SEC. 1765. No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation."

In *Hall* v. *U.S.*, 91 U.S. 559 (1875), Mr. Justice Clifford touched upon the question of compensation for extra services stating:

"Compensation for extra services, where no certain sum is fixed by law, cannot be allowed by the head of a department to any officer who has by law a fixed or certain compensation for his services in the office he holds, unless such head of a department is thereto authorized by an act of Congress; nor can any compensation for extra services be allowed by the court or jury as a setoff, in a suit brought by the United States against any officer for public money in his hands, unless it appears that the head of the department was authorized by an act of Congress to appoint an agent to perform the extra service, that the compensation to be paid for the service was fixed by law, that the service to be performed had respect to matters wholly outside of the duties appertaining to the office held by the agent, and that the money to pay for the extra services had been appropriated by Congress. *Converse* v. *United States*, 21 How. 470."

One year later, Pierrepont, Attorney General (15 Atty. Gen. 71), ruled that where a special agent of the Post Office Department is in receipt of a fixed compensation and in addition performed the duties of a deputy marshal, he cannot be allowed in respect of such services as marshal anything beyond his actual expenses incurred (see 1765 Rev. Stat.).

The question of retired Army officers holding civil office was considered by Devens, Attorney General in 1877 (see Retired Officer's case, 15 Atty. Gen. 306). Devens ruled that a retired officer does not vacate his commission in the Army by accepting a civil office unless that office is in the diplomatic or consular service, in which case he is considered to have resigned his place in the Army. He pointed out that section 1222, Revised Statutes, forbidding officers to hold civil office, was limited to officers on the active list, and that even the prohibition respecting diplomatic or consular posts under section 1223, Revised Statutes, although applying to both the active and retired lists, did not apply to certain officers excepted under the act of March 3, 1875 (18 Stat. 512, ch. 178) concerning officers wounded in battle. The excepted officers, even though accepting consular and diplomatic posts, would not vacate their commissions thereby. Devens in respect to retired officers in general stated:

"The provisions of the statutes in regard to retired officers direct that they may be assigned to duty at the Soldiers' Home under certain circumstances, and that they shall not be assignable to any other duty (Rev. Stat., sec. 1259). And, further, that they may on their own application be detailed to serve as professors in any college (sec. 1260). It would not, in my opinion, be a legitimate construction of these two sections to say that they prohibit an officer from accepting or being appointed to a purely civil office under the U.S. Government. In the absence of any provision of law forbidding such officers to hold civil offices, especially when these sections are taken in connection with the law that officers upon the active list are (by sec. 1222 of the Revised Statutes) held to have vacated their commissions by the acceptance of any civil office, and that all officers who accept or hold appointments in the diplomatic or consular service are (by sec. 1223) considered as having resigned their places in the Army, with the exception above alluded to, it must be considered that a retired officer is not precluded from holding a civil office under the U.S. Government, unless in the consular or diplomatic service.

"The third question proposed by you is, whether a retired officer is entitled to draw his pay as such and also the salary of any civil office he may hold under the U.S. Government.

"Sections 1763, 1764, and 1765 of the Revised Statutes forbid any person who holds an office, the salary or annual compensation of which amounts to the sum of $2,500, to receive compensation for discharging the duties of any other office, unless expressly authorized by law; they also direct that no allowance or compensation shall be allowed to any officer or clerk by reason of the discharge of duties which belong to any other officer or clerk in the same or any other department, and that no officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation.

"The construction which has been given to these statutes (especially in the case of *Converse* v. *the United States*, 21 How., 463) is that the intent and effect of them is to forbid officers holding one office to receive compensation for the discharge of duties belonging to another, or additional pay, extra allowance, or compensation for such other services or duties where they hold the commission of but a single office, and, by virtue of that office, or in addition to the duties of that office, have assigned to them the duties of another office. According to that decision, however, if an officer holds two distinct commissions, and thus two distinct offices, he may receive the salary for each. The evil intended to be guarded against by these statutes was not so much plurality of offices as it was additional pay or compensation to an officer holding but one office for performing additional duties, or the duties properly belonging to another. If he actually holds two commissions, and does the duties of two distinct offices, he may receive the salary which has been appropriated to each office. Sections 1763, 1764, and 1765, above referred to, are condensations from statutes which were in existence at the time that this decision was made, and in conformity with it I deem it my duty, in answer to your inquiry, to say that a retired officer may draw his pay as such, and may also draw the salary of any civil office which he may hold under the Government, assuming always that the duties of the civil office are performed under and by virtue of a commission appointing him to that office, which he holds in addition to his rank as a retired officer."

On April 14, 1882, the Senate by resolution requested the Judiciary Committee to inform the Senate whether or not a retired U.S. Army officer could rightfully hold a civil office under the Government of the United States (CONGRESSIONAL RECORD, vol. 13, p. 2878). The committee, through its chairman, Mr. Garland, reported in the affirmative (p. 2977) as follows (S. Rept. No. 429, 47th Cong., 1st sess.):

"There is nothing in the Constitution touching the question embraced by the resolution.

"In the Revised Statutes (sec. 1222) any officer of the Army on the active list is prohibited from holding any civil office, whether by election or appointment, and by the same law, if any Army officer on the active list accepts or exercises the functions of a civil office, he shall thereby cease to be an Army officer and his commission as such shall be thereby vacated.

"This is limited to the active list and would clearly imply that an Army officer on the retired list could be a civil officer.

"The next section (1223) provides expressly that any officer of the Army who accepts or holds any appointment in the diplomatic or consular service of the Government shall be considered as having resigned his place in the Army, and it shall be filled as a vacancy. But this disqualification in the diplomatic or consular service was virtually repealed by the act of March 3, 1875, as follows: 'And every such officer now borne on the retired list shall be continued thereon notwithstanding the provisions of section 2, chapter 38, act of March 3, 1863'; and, also, 'and be it also provided, that no retired officer shall be affected by this act who has been retired or may hereafter be retired on the rank held by him at the time of his retirement.' (Rev. Stat., supp., ch. 178, p. 195.)

"Comparing the different statutes on the subject, the committee answer the question in the affirmative."

Devens once again upheld the right to hold two distinct offices and to receive the pay of each in *Riley's* case, 16 Op. Atty. Gen. 7 (1787). He again applied the ruling concerning the performance of extra duties only, which under § 1763, Revised Statutes, would prohibit extra payment in such cases (see *Dinsmore's* case, 16 Op. Atty. Gen. 565).

The case of *U.S.* v. *Converse* (21 How. 463) was confirmed in 1884 in *U.S.* v. *Brindle*, 110 U.S. 688. In that case, Brindle was employed as a receiver of public moneys in the sale of public lands for a district in Kansas, having an annual fixed salary. He was also appointed agent for the sale of Indian trust lands under the treaty of July 17, 1854, 10 Stat. 1048. The Court noted that the duties under the latter statute and treaty were different and not imposed upon Brindle by an office under the Government of the United States. Therefore he held two distinct offices.

The Court stated:

"In *Converse* v. *United States*, 21 How. 463, it was decided that provisions in appropriation acts, like section 18 of the act of August 31, 1852, prohibiting an officer from receiving more than one salary, could not by 'fair interpretation be held to embrace an employment which has no affinity or connection, either in its character or by law or usage, with the line of his official duty, and where the service to be performed is of a different character and for a different place, and the amount of compensation regulated by law' (p. 471). In the present case the employment was for a special service in connection with a special trust assumed by the United States for the benefit of certain Indian tribes, in which express provisions were made for the payment of expenses. In legal effect, the appointment was to an agency for the sale of lands for the Indians, with an implied understanding that a reasonable compensation would be paid for the services rendered. So far as anything appears in the record, the appointment was not made because Brindle was receiver of the land office. The duties to be performed were of a different character and at a different place from those of the land office, and while the exact amount of compensation for this service was not fixed, it was clearly to be inferred that such compensation as the law implies where labor is performed by one at the request of another, that is to say, a reasonable compensation, would be paid. This case comes, therefore, within the rule in *Converse* v. *United States*, and Brindle is not excluded by the act of 1852 from demanding compensation for this service by reason of his being receiver of the land office."

In 1885 Garland, Attorney General, applied the rule in the Converse and Brindle cases to the case of Donovan, 18 Atty. Gen. 303. He held that a clerk in the office of the auditor of the District of Columbia, who was also appointed a referee by the Court of Claims, under the act of June 16, 1880, was entitled to receive the salaries of both offices.

The question was again raised in the Supreme Court in *United States* v. *Saunders*, 120 U.S. 126 (1887). Saunders, a clerk in the office of the President, was also appointed clerk of the Committee on Commerce of the Congress of the United States. The Comptroller refused to pay him the salary of his position as committee clerk. Mr. Justice Miller in his opinion stated:

"We are of opinion that. taking these sections all together, the purpose of this legislation was to prevent a person holding an office or appointment, for which the law provides a definite compensation by way of salary or otherwise, which is intended to cover all the services which, as such officer, he may be called upon to render, from receiving extra compensation, additional allowances, or pay for other services which may be required of him either by act of Congress or by order of the head of his department, or in any other mode, added to or connected with the regular duties of the place which he holds; but that they have no application to the case of two distinct offices, places, or employments, each of which has its own duties and its own compensation which offices may both be held by one person at the same time. In the latter case, he is in the eye of the law two officers, or holds two places or appointments, the functions of which are separate and distinct, and, according to all the decisions, he is in such case entitled to recover the two compensations. In the former case, he performs the added duties under his appointment to a single place, and the statute has provided that he shall receive no additional compensation for the class of duties unless it is so provided by special legislation. The case of *United States* v *Brindle*, 110 U.S. 688, in which an Indian agent received large additional compensation for services connected with the sale of lands belonging to the Indians of his agency, which was affirmed in this court, was upon the ground that these additional services were performed for the benefit of the Indians, and the statute implied the payment of a reasonable compensation for such services. (See also *Converse* v. *The United States*, 21 How. 463)."

Attorney General Garland covered the question again in *Marshal's* case, 19 Op. Atty. Gen. 121 (1888). The marshal had, in addition to his duties as marshal, been appointed an agent under section 5276, Revised Statutes, to bring back a fugitive criminal from a foreign country. Garland pointed out that the construction of the various statutes had been repeatedly passed upon by his predecessors. He reviewed the thinking of the majority school of thought represented by Attorney General Black that the $2,500 limitation prohibited not only the receipt of extra pay, but also the salaries of more than one office, no matter under what circumstances the duties of that office may have been performed and the minority school of thought, represented by Attorney General Crittenden, that none of the acts forbade a person from holding two offices and receiving the salaries thereof, because the prohibition was against his receiving a salary of an office that he did not hold, and not against his receiving a salary of two offices which he did legitimately hold. Garland also reviewed the Supreme Court cases concerned in this general question: *Converse* v. *U.S.*, 21 How. 463 (1858); *Stanbury* v. *U.S.*, 8 Wall. 34 (1868); *U.S.* v. *Shoemaker*, 7 Wall. 338 (1868); *Hall* v. *U.S.*, 91 U.S. 559 (1875); *U.S.* v. *Brindle*, 110 U.S. 688 (1884); and *U.S.* v. *Saunders*, 120 U.S. 126.

The question of retired officers was again reviewed by W. H. H. Miller, Attorney General, in *Major Smith's* case, 19 Op. Atty. Gen. 383 (1889). Major Smith, who held the civilian position in charge of river and harbor work at Wilmington, Del., was appointed from civil life to the position of Major of Engineering in the Army, and thereupon was placed on the retired list of the Army. Miller pointed out that this question had been passed upon by the Senate, the Attorney General and by the courts. He stated:

"The last two questions submitted have substantially been passed upon by the Senate, by this Department, and by the courts before.

"On the 14th of April 1882, the following resolution was submitted to the Senate of the United States:

"'*Resolved*, That the Committee on the Judiciary be instructed to inquire, and report by bill or otherwise, whether or not a retired U.S. Army officer can lawfully hold a civil office under the Government of the United States.'

"It was referred to the Committee on the Judiciary, which, on the 18th, through Mr. Garland, reported to the Senate, 'answering the question in the affirmative.'

"On the 7th of June 1851, a similar question was submitted to Attorney General Crittenden under the statutes of the 3d of March 1839 (5 Stat., 334–349), and of the 23d of August, 1842 (5 Stat., 508–510), from which section 1765, Revised Statutes, was derived. He replied (5 Opin., 768):

"'The plain meaning of this seems to be that an individual holding one office and receiving its salary shall, in no case, be allowed to receive also the salary of another office, which he does not hold, simply on account of his having performed the duties thereof. The prohibition is against his receiving the salary of an office that he does not hold, and not against his receiving the salaries of two offices which he does legitimately hold.'

"On the 11th of June, 1877, like questions were submitted to Attorney General Devens. In his reply (15 Opin., 306) he considers and interprets all the sections to which you refer, and declares:

"'Sections 1763, 1764, and 1765, above referred to, and condensations from statutes which were in existence at the time that this decision (*Converse* v. *The United States*) was made, and in conformity with it I deem it my duty, in answer to your inquiry, to say that a retired officer may draw his pay as such, and may also draw the salary of any civil office which he may hold under the Government, assuming always that the duties of the civil office are performed under and by virtue of a commission appointing him to that office which he holds in addition to his rank as a retired officer.'

"This interpretation is sustained by the Court of Claims in *Meigs* v. *United States* (19 C. Cls. R., 497), and by the Supreme Court in *Converse* v. *United States*, 21 How. 464), *United States* v. *Brindle* (10 U.S.R., 688), and *United States* v. *Saunders* (120 U.S.R., 126), in which last case Miller, J., delivering the opinion, declares:

"'We are of opinion that, taking these sections (1763, 1764, and 1765) all together, the purpose of this legislation was to prevent a person holding an office or appointment, for which the law provides a definite compensation by way of salary or otherwise, which is intended to cover all the services which, as such officer, he may be called upon to render, from receiving extra compensation, additional allowances, or pay for other services which may be required of him either by act of Congress or by order of the head of his department, or in any other mode, added to or connected with the regular duties of the place which he holds; but that they have no application to the case of two distinct offices, places, or employments, each of which has its own duties and its own compensation, which offices may both be held by one person at the same time. In the latter case he is in the eye of the law officers, or hold two places

or appointments, the functions of which are separate and distinct, and, according to all the decisions, he is in such case entitled to recover the two compensations.'

"I am of opinion that the above interpretation of sections 1259, 1763, 1764, and 1765, Revised Statutes, to which you refer, is well established alike by reason, precedent, and authority.

"I therefore answer your first inquiry in the affirmative, and your second and third inquiries in the negative."

The year 1894 saw the passage of legislation which appears to have reversed in part the doctrine propounded by the Supreme Court. In the Converse case Attorney General Crittendens' opinion was disallowed to the effect that a person might hold two offices to which he had been legitimately appointed and receive the salary of each. As we have seen, retired military offices had been specifically included within the limits of this doctrine. In 1894 language was attached to the Legislative, Executive, and Judicial Expenses Appropriations Act, 1895, in the form of a rider to section 2 which made it clear that persons holding an office, the salary or annual compensation attached to which amounted to $2,500, were not to be appointed to or hold any other office unless specifically authorized thereto by law.

That this rider applied to retired military officers is implied by the fact that the following was a part thereof:

"But this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office, or whenever the President shall appoint them to office by and with the advice and consent of the Senate."

The Legislative, Executive, and Judicial Expenses Appropriations Act, 1895, had been introduced in the House of Representatives as H.R. 7097 and had been passed. In the Senate, the Senate Committee on Appropriations inserted the rider as the second sentence of Section 2 of the bill. However, the committee did not discuss the matter in its report (Senate Report 506—53d Congress, Second Session). When the Senate considered a bill as reported on July 13, 1894, the following debate took place (CONGRESSIONAL RECORD, vol. 26, p. 7423):

"The next amendment was, in section 2, on page 126, line 10, after the word "each," to insert:

" 'No person who holds an office the salary or annual compensation attached to which amounts to the sum of $2,500 shall be appointed to or hold any other office unless hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office.'

"Mr. PLATT. I supposed we had a provision of law to the effect that no officer in the Government employ could draw a salary for two offices. Is there not such a law?

"Mr. COCKRELL. There is such a law, but we do not think it covers the case.

"Mr. PLATT. Will the Senator please explain why this amendment is necessary?

"Mr. COCKRELL. This is simply to prohibit in certain classes of cases the payment of double salaries, and yet not to make it an invariable rule in all kinds of cases. There is an exception to be offered to it. The Senator from Iowa has the amendment to the amendment which was prepared for submission. After the words 'public office,' in line 15, to insert: 'or whenever the President may appoint them thereto, by and with the advice and consent of the Senate.'

"Mr. PLATT. Let the amendment to the amendment be read at the desk.

"The PRESIDING OFFICER. The amendment to the amendment will be stated.

"The SECRETARY. After the word 'office,' in line 15, on page 126, it is proposed to insert: 'whenever the President shall appoint them to office by and with the advice and consent of the Senate.'

"The amendment to the amendment was agreed to.

"The amendment as amended was agreed to."

No further debate took place in either House respecting the rider. The conference committee in its report to the Senate stated with respect to the final text of the rider (CONGRESSIONAL RECORD, vol. 26, p. 7844):

"That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment as follows: In line 4 of said amendment strike out the word 'unless' and insert in lieu thereof the following: 'to which compensation is attached, unless specially heretofore or;' and the Senate agree to the same."

With respect to this the conference report in the House states (CONGRESSIONAL RECORD, vol. 26, p. 7856):

"On amendment numbered 186: Instead of the provision proposed by the Senate, prohibiting the holding of two offices by one person, inserts the following: 'No person who holds an office the salary or annual compensation attached to which amounts to the sum of $2,500 shall be appointed to or hold any other office to which compensation is attached unless specially heretofore or hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army and Navy, whenever they may be elected to public office, or whenever the President shall appoint them to office by and with the advice and consent of the Senate.'

The bill H.R. 7097 with the rider in section 2 as amended was approved by the President on July 31, 1894 (28 Stat. 205).

The final text of section 2 of the act was (the text of the rider is single quoted):

"SEC. 2. That the pay of assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this act, unless otherwise specially stated, shall be as follows: For assistant messengers, firemen, and watchmen, at the rate of seven hundred and twenty dollars per annum each; for laborers, at the rate of six hundred and sixty dollars per annum each, and for charwomen, at the rate of two hundred and forty dollars per annum each. 'No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially heretofore or hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate.' "

The 1894 Statute was considered by Attorney General Griggs in *Putnam* case, 22 Op. Atty. Gen. 184 (1898). The Honorable William L. Putnam was a U.S. circuit judge who had been appointed as one of the commissioners under the Convention of February 8, 1896, concerning claims growing out of seizures of vessels on the Bering Sea. Griggs considered that, provisions for the appointment of commissioners having been included in the Convention, the office of commissioner was one growing out of the foreign relations of the United States and was not an office comtemplated by article 2, section 2 of the Constitution, which provided for appointments by the President by and with the advice and consent of the Senate, etc.

He concluded that under these circumstances the office of commissioner, not being a constitutional office, was therefore not within the prohibition of section 2 of the act of 1894. Griggs further considered the definition of office in the more popular sense and found that the Supreme Court had indicated that an officer was one whose office included tenure, continuation, emoluments, etc., citing *U.S.* v. *Germaine*, 99 U.S. 510; *U.S.* v. *Mouat*, 124 U.S. 307; *Auffmordt* v. *Hedden*, 137 U.S. 327. He concluded that the office of commissioner being only temporary and for a specific purpose only and having neither tenure, duration, or emoluments, could not be said to be a public office within the prohibition of the 1894 act. He therefore ruled that Judge Putnam could receive both his salary as a circuit court judge and compensation for his work as commissioner under the Convention, notwithstanding the fact that his salary as circuit court judge exceeded $2,500.

Putnam's case appears to have been the first exemption from the prohibition against dual officeholding in the 1894 act. A further exemption was made by Attorney General Bonaparte in *Neill's* case, 26 Op. Atty. Gen. 247 (1907). Commissioner of Labor Charles P. Neill was also appointed a member of the Immigration Commission under the act of February 20, 1907 (34 Stat. 898, 909) to investigate immigration affairs. His salary as Secretary of Labor exceeded $2,500. Bonaparte duly noted the holding of Griggs in the Putnam case. He rested his decision in behalf of Neill on the grounds that the position of member of the immigration commission, being of a temporary nature and for a single specific purpose did not fall within the definition of "public office" as defined by the United States Supreme Court in *U.S.* v. *Hartwell*, 16 Wall. 385, 393; *U.S.* v. *Moore*, 95 U.S. 762, *U.S.* v. *Germaine*, 99 U.S. 511, *Hall* v. *Wisconsin*, 103 U.S. 8, *Auffmordt* v. *Hedden*, 137 U.S. 327, *Opinion of the Judges*, 3 Greenl. (Me.) 461, *Eliason* v. *Coleman*, 86 N.C. 235, and *U.S.* v. *Maurice*, 2 Brock 96. On this basis Bonaparte held that Neill was entitled to hold both offices and receive the salary of both.

In 1916 the question of double salaries reoccurred in the Congress by the enactment of a rider on the Legislative, Executive, and Judicial Appropriations Act, 1917 (39 Stat. 120, sec. 6). That act had been reported in the House by the House Committee on Appropriations as H.R. 12207, 64th Congress, 1st session. As reported and as passed by the House, the bill contained no provisions respecting double salaries. The Senate Appropriations Committee in reporting the bill to the Senate (S. Rept. No. 329, 64th Cong.) included a section 6 in the bill without comment as follows:

"SEC. 6. That no money appropriated by this or any other Act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum, but this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate."

When the bill was read for amendment on the floor of the Senate the following debate took place (CONGRESSIONAL RECORD, vol. 53, pt. 6, pp. 5731–5732):

"The next amendment was, on page 154, after line 14, to insert as a new section the following:

" 'SEC. 6. That no money appropriated by this or any other act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum, but this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate.'

"Mr. Lodge, Mr. Swanson, and Mr. Kern addressed the Chair.

"Mr. LODGE. I merely wish to offer an amendment to the amendment. I dare say the Senator from Virginia rose to offer the same amendment I was going to propose.

"Mr. SWANSON. About the Marine Corps?

"Mr. LODGE. To insert, after the word 'Navy,' the words 'Marine Corps.'

"Mr. SWANSON. And, in line 20, 'appointed or.'

"Mr. LODGE. 'Appointed or' before 'elected.'

"Mr. OVERMAN. What is the amendment?

"Mr. LODGE. The amendment is to insert, after "retired officers of the Army or Navy,' the words 'or Marine Corps,' and, of course, it ought also be read 'whenever they may be appointed or elected to public office.'

"The PRESIDING OFFICER. The proposed amendment will be read.

"The SECRETARY. On page 154, in section 6, after the word 'Army,' insert a comma and strike out the word 'or'; after the word 'Navy' insert the words 'or Marine Corps'; and, in line 20, before the word 'elected,' insert 'appointed or'; so as to make the section read:

" 'SEC. 6. That no money appropriated by this or any other act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum, but this shall not apply to retired officers of the Army, Navy, or Marine Corps whenever they may be appointed or elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate.

"Mr. MARTIN of Virginia. I think that is a proper amendment.

"The amendment to the amendment was agreed to.

"The amendment as amended was agreed to.

"Mr. SHEPPARD. Mr. President, I wish, for information, to make an inquiry regarding section 6. As I understand it, the combined amount of salaries that one person may draw has heretofore been limited to $2,500. Am I correct in that?

"Mr. MARTIN of Virginia. No. The former law was that no clerk who was receiving as much as $2,500 per annum should have any second appointment at all.

"Mr. SHEPPARD. Why was that amount reduced to $2,000?

"Mr. MARTIN of Virginia. Because we were informed of abuses in some of the departments; that when they could not raise a clerk's salary—when Congress refused to make the allowance—they would just give him some other place in addition to that which he held.

"Mr. SHEPPARD. That is entirely satisfactory to me, Mr. President."

As thus adopted the rider passed the Senate. At the conference certain additions were made to the amendment (H. Rept. No. 617, 64th Cong., pp. 6, 7, 12, 13), as follows:

"Amendment No. 229: That the House recede from its disagreement to the amendment of the Senate No. 229, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

" 'SEC. 6. That unless otherwise specially authorized by law no money appropriated by this or any other act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum, but this shall not apply to retired officers of the Army, Navy, or Marine Corps whenever they may be appointed or elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate or to officers and enlisted men of the Organized Militia and Militia in the several States, Territories, and the District of Columbia.

" 'And the Senate agree to the same.

* * * * * *

" 'No. 229: Inserts section 6, proposed by the Senate, prohibiting the payment of more than one salary to any person where the combined salaries exceed $2,000, modified so that the section shall not operate where more than one payment is specially authorized by law, and shall not be effective in the case of officers and enlisted men of the Organized Militia and the Naval Militia of the States, Territories, and the District of Columbia.' "

As thus amended the rider was enacted and became section 6 of the act, supra. Later in the same session the matter was taken up again in the Naval Service Appropriations Act, 1917, (39 Stat. 582), by means of another rider. This act had been reported in the House by the House Committee on Appropriations as H.R. 159457. Here also, the rider was attached in the Senate committee by amendment and without comment. The following occurred on the floor of the Senate (CONGRESSIONAL RECORD, vol. 53, pt. 11, p. 11025–11026):

"The next amendment was, on page 70, after line 2, to insert:

"Section 6 of an act entitled 'An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917, namely:' approved May 10, 1916, is hereby amended so as to read as follows:

" 'SEC. 6. That unless otherwise specially authorized by law, no money appropriated by this or any other act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum, but this shall not apply to retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia: *Provided*, That no such retired officer, officer, or enlisted man shall be denied or deprived of any of his pay, salary, or, compensation as such, or of any other salary or compensation for services heretofore rendered, by reason of any decision or construction of said section 6.'

"Mr. NORRIS. Mr. President, I should like to inquire of the Senator from Virginia what change is made in section 6 from the law as it exists now?

"Mr. SWANSON. The only change is in the proviso.

"Mr. NORRIS. From the proviso on?

"Mr. SWANSON. In the proviso itself. I will state to the Senator that this takes care of Mr. Theall, who is the secretary of the Naval Affairs Committee of the House. We passed a provision that permitted that, and the Comptroller of the Treasury decided that the clerk of a committee was not a public officer, which precluded him from occupying that position. This simply puts a construction there so that the Comptroller of the Treasury can not deprive him of his present position. We had previously passed a law taking care of him, and he decided that the clerk of a committee was not a public officer, and would not pay the salary.

"Mr. NORRIS. Does this apply to anybody except this official of the House of Representatives?

"Mr. SWANSON. To no one, I understand, except this officer.

"Mr. NORRIS. Why not make a direct reference to the particular person?

"Mr. LODGE. We are amending the statute. You cannot mention him in another statute.

"Mr. NORRIS. This particular position in the House of Representatives is filled by a retired naval officer. There is another question. If this applies only to an official or employee of the House of Representatives, why did not the House of Representatives put it in?

"Mr. SWANSON. I understand that there is another one at the Navy yard. If the Senator will permit me, we amended section 6 so as to enable them to employ a retired officer in the Navy to be clerk of the committee. That was included in the bill. The provision was included in the legislative, executive, and judicial appropriation bill. Having used the words 'public officer,' the Comptroller of the Treasury, I understand, rules that the clerk of the committee is not a public officer, and consequently he cannot receive his salary. The amendment is in the proviso which prevents the Comptroller from giving that interpretation to the law.

"Mr. LODGE. If the Senator will allow me, I may remind him that this ruling was not made until after the bill had left the House.

"Mr. NORRIS. Even if that be true, this is to give relief to someone in the House, and this is simply, of course, class legislation put on an appropriation bill. I had my attention called to it by a Member of the House, who said that it applied to a large number of retired persons, and I should think it would apply to practically the entire Navy Department. If there is any good reason why one man should be excluded from the operation of the law, I would not have any objection if he was excluded and excluded directly by name or his office or position excluded.

"Mr. LODGE. But the general law expressly provides that the provision about the salaries shall not apply to retired officers and enlisted men. That is the general provision of the statute. The exception is in the proviso, because there is an attempt made to exclude this one man from the general law by the Comptroller by a ruling which, it seems to me, is absurd. Down to the proviso it is the general existing law.

"Mr. NORRIS. Commencing, then, at line 17, with the proviso, that is the only change made in the existing law?

"Mr. LODGE. It is to enable him, if the Senator will read it, to receive his compensation as provided by law for services heretofore rendered.

"Mr. NORRIS. Let us see how it reads:

" '*Provided*, That no such retired officer, officer, or enlisted man shall be denied or deprived of any of his pay, salary, or compensation as such, or of any other salary or compensation for services heretofore rendered, by reason of any decision or construction of said section 6.'

"Do I understand that the effect of that will be that this official in the House of Representatives, who seems to be the beneficiary, will get his back pay, but will in the future not be able to get any?

"Mr. LODGE. No; he will get it in the future. It covers both.

"Mr. NORRIS (reading). Of any of his pay, salary, or compensation as such, or of any other salary or compensation for services heretofore rendered.

"Mr. LODGE. Yes; no such retired officer 'shall be denied or deprived of any of his pay, salary, or compensation as such, or of any other salary or compensation for services heretofore rendered.'

"Mr. SMOOT. Mr. President——

"Mr. NORRIS. I yield to the Senator from Utah.

"Mr. SMOOT. The Appropriation Committee of the Senate in reporting the legislative, executive, and judicial appropriation bill for this year inserted section 6 in the bill as follows:

" 'That unless otherwise specially authorized by law no money appropriated by this or any other act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum.'

"That is what the committee reported to the Senate. While the bill was under consideration the Senator from Massachusetts [Mr. Lodge] offered an amendment to the committee amendment as follows:

" 'But this shall not apply to retired officers of the Army, Navy, or Marine Corps whenever they may be appointed or elected to public office or whenever the President shall appoint them to office by and with the advice and

consent of the Senate or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia.'

"That is the way section 6 of the bill finally passed the Senate. I understand of course that this proviso is put in the pending bill to take care of one man in the employ of the House of Representatives. I will say to the Senator that that case was called to the attention of the Appropriations Committee when it first considered the amendment, but the committee at that time did not feel justified in proposing an amendment to take care of one man, but after the Senate adopted the amendment offered by the Senator from Massachusetts it exempted retired officers and enlisted men of the Army and Navy and Marine Corps, and so forth. It develops now that the employee in the House of Representatives referred to is a retired officer, and if that be true he should be exempted under the amendment offered by the Senator from Massachusetts, but under a ruling it is held that no matter whether he is a retired officer or not, holding the position he does with a committee of the House, he is not entitled to the two salaries.

"Mr. NORRIS. I rather think since we have exempted everybody else from the effect of the law we ought not to hesitate to exempt this one man who is left. I understand the law prohibiting anyone from drawing two salaries, is so amended that it does not apply to anyone except this clerk in the House of Representatives, and this is to let him out also.

"Mr. SMOOT. That is the effect of the proviso, but I will say to the Senator——

"Mr. NORRIS. Why not repeal the law altogether?

"Mr. SWANSON. If the Senator will permit me, it was held that the appointment by a committee of Congress, as I understand the ruling of the Comptroller of the Treasury, is not a public officer, and consequently not being a public officer he cannot get the benefit of the exemption that others have. He is a very valuable man, one of the most valuable men in the House of Representatives as far as naval affairs are concerned, and he cannot afford to accept a clerkship in the committee unless this exemption is permitted. This is put in the bill at the request of the chairman of the Naval Committee of the House, who desires to retain the valuable services of this man, and it is made necessary on account of what seems to me to be the foolish ruling of the Comptroller of the Treasury that a clerk of a committee is not a public officer.

"Mr. NORRIS. I should like to inquire how many men are drawing two salaries now who are not affected by the law.

"Mr. SMOOT. I will say to the Senator that at the time the amendment to the legislative, executive, and judicial appropriation bill was being considered in the Committee on Appropriations we undertook to find out just how many there were in the employment of the Government drawing two salaries. We were unable to ascertain the exact number, but I will say to the Senator there were a great many of them, but since the passage of the legislative, executive, and judicial appropriation bill it has done away with all except retired officers, as stated before.

"I will state further to the Senator that the committee found that the practice was growing to such an extent that it decided to pass a law prohibiting it. That is the reason why the committee reported the amendment to the legislative, executive, and judicial appropriation bill.

"Mr. NORRIS. Yes; but after it was amended it did not apply to anybody.

"Mr. SMOOT. Yes; it applied to everybody, with the exception of enlisted men and officers in the Army and Navy, Marine Corps, and Organized Militia and Naval Militia.

"Mr. NORRIS. How many are there of those? Can the Senator state the number?

"Mr. LODGE. If the Senator will allow me, it has never been attempted to prevent retired officers from accepting private employment. It would be a useless cruelty.

"Mr. NORRIS. This law does not attempt to do that. We could not pass a law under the Constitution that would be of any validity, probably, that would do that, but we could pass a law that would prevent a man from drawing two salaries from the Government of the United States.

"Mr. LODGE. You could prevent a retired officer from accepting any other emolument in private life.

"Mr. NORRIS. Nobody wants to do that.

"Mr. LODGE. You could make him forfeit his pay. That has never been done. Officers have always been allowed to accept private employment. Of course, they are always at the orders of the Government.

"Mr. NORRIS. Can the Senator from Utah answer my question as to how many men were drawing two salaries from the Government and are not drawing it now by reason of the enactment of this law?

"Mr. SMOOT. It would be only an estimate, but I will say to the Senator that there must have been something over 50 men who were drawing two salaries who are not doing so today. I do not want to state positively the number, but there were at least that many, and perhaps a great many more.

"Mr. NORRIS. I do not know that that is material now, because it is in the law anyway, but what was the reason for exempting Army officers and officers of the Marine Corps?

"Mr. SMOOT. The reason was this: As to retired officers of the Army, Navy, and Marine Corps, and officers of the Guard, their time belongs to them, and if any department of the Government desires to avail itself of their services, there should be no objection to that. The exemption was adopted so that the Government could avail itself of their services.

"Mr. NORRIS. Why not the other people who are not retired officers of the Army or Navy?

"Mr. SMOOT. The reason is this, because their time is already paid for by the Government, and extra long hours must of necessity interfere with their efficiency in both positions.

"Mr. WEEKS. It is the custom to pay certain officers connected with the Government a higher rate of pay on account of the excellence of their service. For instance, the clerk of the Committee on Appropriations of the House of Representatives is paid an annual salary of $5,000 a year as long as he holds that position. It is simply a reward for efficiency. The salary which he receives is a thousand dollars greater than would be the salary of any other man holding that place. The same general principle applies to this case. The clerk of the House Naval Committee is a graduate of the Naval Academy and served in the Marine Corps. He was retired for physical disability, but he is entirely competent to perform the duties of that technical position not only as well but better than almost any other man. Therefore, it has seemed fair that he should receive his retired pay and such salary as the committee gave him. As a matter of fact, he is paid $2,400 as clerk of the committee, and his retired pay is between $1,900 and $2,000, or about $4,300 a year. That is his entire pay from the Government, and it is not a high salary for that particular place, which he fills so acceptably to the House Naval Committee.

"There are three or four other cases which come under this limitation, I understand. There are perhaps three other naval officers who are employed in such a way that they will not receive their salary under the ruling of the Comptroller. In this particular case the salary for the last 2 months which this House employee actually received is being checked up against his retired pay of the Navy, and unless something is done, as proposed in this measure, not only will he in future receive only the retired pay from the Navy, but the actual pay which he has received under the law up to this time will be checked against that retired pay. It seems to me, from my knowledge of the case, there cannot be two sides to the fairness and desirability of adopting the provision which the Committee on Naval Affairs has proposed to the bill.

"The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

"The amendment was agreed to."

In the conference committee, the House receded from its disagreement to this amendment by the Senate. The amendment was explained by the committee as follows (H. Rept. No. 1099, 64th Cong., p. 23):

"Amendment No. 107: Amends section 6 of the Legislative, Executive, and Judicial Act, approved May 10, 1916, whereby no person who receives more than one salary from the United States when the combined amount of said salaries exceeds the sum of $2,000 per annum shall be paid from any appropriation in that act or any other act, and excludes from the operation of the act retired officers of the Army, Navy, or Marine Corps who were appointed to public office. The Senate amendment excludes retired officers and enlisted men of the Army, Navy, Marine Corps, or Coast Guard, or the officers and enlisted men of the organized Naval Militia in the several States, Territories, and District of Columbia, and further provides that no such retired officer shall be checked in his pay due to any construction of section 6 prior to the passage of this act. And the House recedes."

This amendment constitutes the present text of the Federal doctrine on double salaries United States Code 5: 58. The proviso respecting acceptance of retired officers or enlisted men appears in the United States Code 5: 59. Various other amendments have been made to this act. However, the basic principle of the legislation has not been specifically changed. These amendments took the form of exemptions from the provisions of the act. For instance, United States Code 5: 60 exempted employees of the Library of Congress, who perform special functions in connection with its trust funds, from the provisions of section 58 (see also section 59a). The decisions and opinions on section 58, which have occurred since the 1916 amendment, are concerned with construing its effect and are reviewed below.

No questions concerning dual compensation and dual employment seem to have occurred during the years between the enactment of the 1916 amendment, supra, and 1921. On June 10, 1921, the Congress established the office of Comptroller General who succeeded to the powers and duties theretofore imposed upon the Comptroller of the Treasury as well as the duties of the six auditors in that department. The opinions of the Attorney General gradually ceased to concern themselves with questions of dual employment and compensation and the decisions of the Comptroller General, since he was vitally concerned with the payment of money of the United States in accordance with law, supervened.

Between 1921—the date of appointment of the Comptroller General—and 1924, date of the latest and present text of the law (except for a minor amendment) respecting dual officeholding, the Comptroller General issued a number of decisions as follows:

(1 Compt. Gen. 14, July 13, 1921): "The act of May 10, 1916 (39 Stat., 120), prohibiting the use of any appropriation for payment to the same person of more than on salary from the Government when the combined amount exceeds the sum of $2,000 per annum, is applicable to the funds of the United States Shipping Board Emergency Fleet Corporation; hence an employee of the corpora-

tion may not also receive compensation from the United States Shipping Board when the combined compensation is more than $2,000 per annum."

(1 Compt. Gen. 65, Aug. 11, 1921): "A clerk of U.S. district court may legally be paid as clerk while holding a commission in the Officers' Reserve Corps of the U.S. Army, except for such periods as he may be on active duty as an officer in the Officers' Reserve Corps when he would be prohibited by provisions of section 6 of the act of May 10, 1916, as amended by the act of August 29, 1916, 39 Stat., 582, from receiving compensation as a clerk of court."

(1 Compt. Gen. 219, Oct. 17, 1921): "The employment of a major retired from active duty as special assistant to the Attorney General with compensation attached, and payment to him of that compensation in addition to his retired pay, is prohibited by the act of July 31, 1894, 28 Stat., 205."

This case concerned the desire of the Attorney General to employ Col. E. G. Davis, a retired Army officer, as a special assistant to the Attorney General. The Comptroller General after quoting section 2 of the act of July 31, 1894, to the effect that no "person who holds an office, the salary or annual compensation attached to which amounts to the sum of $2,500 shall be appointed to or hold any office to which compensation is attached, unless specially heretofore or hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate" pointed out that the retired Army officers hold office within the meaning of the section unless they fall within the exceptions noted above. The Comptroller General distinguished the case in 36 Court of Claims 39, by pointing out that the compensation allowed there was payable from a discretionary appropriation which had been given to the President for national security and defense and was allowed by the court as not open to question for that reason. He further pointed out that *Geddes* v. *United States*, 38 Court of Claims 428, turned largely upon the construction of another statute and is not decisive of the application of this section of the act of 1894 to retired Army officers. He stated that the prohibition applies to retired officers sought to be appointed to or to hold any office not elective or appointive in the manner prescribed by the statute. He noted that the earlier decisions permitting the appointment of retired Army officers rested upon the conclusion that the element of duration, thought to be one of the essentials to an office, was lacking in such appointments and concluded that it was clear that the proposed appointment of Colonel Davis at a yearly salary and for the purpose indicated would establish duration as one of the incidents of appointment.

With respect to the question of whether Colonel Davis could give up his retired pay and accept only the pay of the office of special assistant to the Attorney General, the Comptroller General pointed out that the U.S. Supreme Court has held that public policy prohibits any attempt by unauthorized agreement with an officer of the United States under guise of a condition or otherwise, to deprive him of the right to pay given by statute (*Glavev* v. *United States*, 182 U.S. 595; *United States* v. *Andrews*, 240 U.S. 90). He concluded that any attempts by the colonel to relinquish his retired pay and restrict himself to the right to compensation as special assistant only would be ineffective for that purpose.

(1 Compt. Gen. 544, Mar. 24, 1922): "The act of May 12, 1917, 40 Stat. 72, granting officers and employees of the United States, who are members of the Officers' Reserve Corps, leave of absence without loss of pay for not exceeding 15 days per year during which ordered to duty with troops or at field exercises or for instruction, together with section 39 of act of June 3, 1916, 39 Stat. 191, bring such employees within the exception to the general prohibition in section 6 of the act of May 10, 1916, as amended, as to the payment of two salaries aggregating more than $2,000 per annum, and they may be paid both their civilian pay and the pay of their rank or grade in the Reserve Corps for the period of such duty or exercises."

(1 Compt. Gen. 571, Apr. 15, 1922): "Retired officers or enlisted men of the Army or Navy are not prohibited by the act of July 31, 1894, 28 Stat. 205, or the act of May 10, 1916, as amended, 39 Stat. 120, 582, from holding a Government position or office, provided neither the retired pay nor the salary attached to the position or office amounts to $2,500, the aggregate of the two being immaterial."

(1 Compt. Gen. 592, Apr. 24, 1962): "The act of July 31, 1894, 28 Stat., 203, appropriating from the costs collected by the clerks of the circuit courts of appeals the amounts necessary for clerk hire and other expenses of the courts bring the employees of such courts within the scope of the act of May 10, 1916, 39 Stat., 582, and they are therefore prohibited from receiving compensation as bailiff of the court and also as clerical assistant when the aggregate of the two salaries exceeds $2,000 per annum."

(1 Comp. Gen. 700, May 25, 1922): "Retired officers or enlisted men of the Army or Navy hold offices with compensation attached within the meaning of the act of July 31, 1894, 28 Stat., 205, and are accordingly prohibited by said act from holding any other office under the Government, except an elective one or one to which appointment is made by and with the advice and consent of the Senate, if either the retired pay or the salary attached to the office or position amounts to $2,500 per annum. 1 Compt. Gen., 571, adhered to."

(2 Compt. Gen. 37, July 22, 1922): "Charges by an assistant surgeon of the Alaskan Engineering Commission for performing autopsies outside of the scope of his official duties are fees and not salary and do not come within the inhibition of the act of May 10, 1916, 39 Stat., 120, as amended; and as the salary of such assistant surgeon is not fixed by law or regulation he is not prohibited from receiving such additional fees by sec. 1765, Revised Statutes."

(2 Compt. Gen. 373, Nov. 16, 1922): "Retired enlisted men of the Army, Navy, or Marine Corps, whose retired pay is not in excess of $2,500 and who have been employed in the Veterans' Bureau at salaries exceeding $2,500 per annum contrary to the act of July 31, 1894, 28 Stat., 205, may be reappointed to positions paying less than $2,500 effective from the date the appointment is actually made and accepted, but such appointments may not be made retroactive to cover the period of service under the prior illegal appointment."

(2 Compt. Gen. 436, Jan. 13, 1923): "Teachers in the night schools of the District of Columbia are paid from funds appropriated by Congress and are accordingly prohibited by the act of May 10, 1916, 39 Stat., 120, as amended by the acts of August 29, 1916, 39 Stat., 582, and October 6, 1917, 40 Stat., 384, from receiving for any one day's work as such teacher any compensation in excess of one three-hundred-and-twelfth of the amount by which $2,000 exceeds the salary they may be receiving from other employment by the Federal Government or by the District of Columbia in any other capacity than as teacher in the public schools."

(2 Compt. Gen. 460, Jan. 27, 1923): "A retired captain of the fire department of the District of Columbia may be employed and paid as watchman at $720 per annum in the Treasury Department while continuing to draw his retirement relief of approximately $78 or $79 per month, provided such duty as watchman is not incompatible with his status on the retired list for the purposes of the act of September 1, 1916, 39 Stat., 720."

(3 Compt. Gen. 24, July 11, 1923): "Teachers of the public schools of the District of Columbia are not in the Federal service and may therefore be employed during school vacation as expert examiners of the Civil Service Commission, the special appropriation for such examiners relieving them from the restrictions of the act of May 10, 1916 as amended, 39 Stat., 120, 582."

(3 Compt. Gen. 116, Sept. 5, 1923): "An employee of the U.S. Tariff Commission having had 15 days military leave as a member of the Officer's Reserve Corps is not entitled to receive his civilian salary, with annual leave, while performing a second period of military service in the same calendar year if the annual rates of the civilian salary and military pay for such second period of military service exceed $2,000 in the aggregate."

(3 Compt. Gen. 260, Oct. 26, 1923): "Employment of the same person as laborer and as clerk at the same time when the combined salaries exceed an aggregate rate of $2,000 per annum is prohibited by the act of May 10, 1916 (39 Stat. 120), it being immaterial that by reason of the intermittent character of the employment the total pay actually received per annum does not amount to $2,000."

During the course of the 68th Congress, 1st session, an amendment was added to section 2 of the act of 1894, which had prohibited the holding of another lucrative office. The Senate bill 2450 containing the amendment provided for the addition of a new sentence at the end of section 2 of the Legislative, Executive, and Judicial Appropriation Act, approved July 31, 1894, to read as follows:

"Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard shall not be construed to hold an office within the meaning of this section."

This bill was reported by the Senate Committee on Military Affairs (S. Rept. No. 254, 68th Cong.) passed the House and was reported by the House Committee on Military Affairs (H. Rept. No. 498). The House Committee, in its report, repeated the report of the Senate committee as follows:

"The Committee on Military Affairs, to which was referred the bill (S. 2450) to amend section 2 of the Legislative, Executive, and Judicial Appropriation Act approved July 31, 1894, having considered the same, report thereon favorably with the recommendation that the bill do pass without amendment.

"A similar bill was reported to the Senate by your committee during the 67th Congress and the report accompanying that measure is appended hereto and made a part of this report, as follows:

" 'The bill was introduced at the suggestion of representatives of the American Legion, and the purpose of it is explained in the following memorandum presented by them:

" ' 'The men affected by this bill are about 12 old-time noncommissioned officers, who have been retired as enlisted men for length of service. All of these men are veterans of the Spanish-American War, the Philippine Insurrection, and the World War; two at least are veterans of Indian wars. All served as officers during the World War and returned to their grades as retired enlisted men after the war was over. These bills do not call for any appropriation or expenditure of funds.

" ' 'It is evident from a study of section 2 of the act of 1894 that Congress had no intention, nor even had in mind including retired enlisted men in the provisions of the act, which provides that no person holding an office with the Government shall hold any

other office with compensation over $2,500. The Comptroller General has recently held that a retired enlisted man, as such, holds an office under the Government.

" ' "Due to their ability and fitness in administrative and financial matters, certain of these men have been appointed under congressional and civil service authority to offices of trust in the Veterans' Bureau, Department of Agriculture, and other departments, and have proved to be valuable men. Under the Comptroller's decision they must now suffer a reduction in salary below many others doing similar or less important work.

" ' "It is surely not the intent of Congress or the public that these men who have spent the better part of their lives in the military service should now be discriminated against on account of being retired enlisted men. It is the intent of this bill to rectify this discrepancy and to place these men on an equal footing for employment as other American citizens of equal ability."

" 'A letter requesting the passage of this bill has been received from the Director of the Veterans' Bureau, Colonel Forbes, which is included in this report as follows:

" 'U.S. VETERANS' BUREAU,
" *'Washington, January 15, 1923.*

" 'Hon. JAMES W. WADSWORTH, Jr.
" *'Chairman, Committee on Military Affairs, U.S. Senate, Washington, D.C.*

" 'DEAR SENATOR WADSWORTH: I desire to invite your attention to Senate bill 4315, introduced by you and which is now before your committee.

" 'This bill allows retired enlisted men of the Army the same privileges of occupying a Government position or office as those enjoyed by the ordinary citizen. The bill has particular application to a limited number of former noncommissioned officers employed in this Bureau. These men are all of exceptional ability and particularly capable of filling positions of importance in the U.S. Veterans' Bureau because of their experience gained through long service, and it does not seem just that they should be discriminated against because of their service to the country.

" 'I sincerely hope you will find it possible to act favorably with regard to this bill at an early date, in order that the men who have so forcibly demonstrated their devotion to these United States may be treated equitably.

" 'Very truly yours,
" 'C. R. FORBES,
" *'Director.*

" 'Your committee is convinced of the justice of this legislation and urges that it be acted upon by the Senate at an early date.' "

During the course of the floor debate in the Senate, the purpose of S. 2450 was explained as follows (CONGRESSIONAL RECORD, vol. 65, p. 5131):

"Mr. KING. I should like an explanation of that measure.

"Mr. WADSWORTH. This bill is here on account of another ruling of the Comptroller General, and I think one of the most extraordinary ones I ever heard of.

"The law provides that a person holding office in or under the Government shall not hold another position under the Government which carries a salary in excess of $2,500 per annum. That needs no explanation.

"There are retired enlisted men of the Army and Navy and Marine Corps who have served 30 years in the service and are retired at three-fourths pay of the grade they occupied on the date of retirement. The Government, in other departments, has employed those men, some of them to the great advantage of the Government on account of their extraordinary training and experience. The Comptroller General comes along and says that a retired enlisted man holds an office as such, a most extraordinary conclusion. This bill states definitely that a retired enlisted man does not hold an office, and, of course, he does not hold an office. His relations to the Government are contractual in nature, that is all. If a retired enlisted man is held to hold an office under the Government, then an active-duty enlisted man must likewise be held to hold an office under the Government. As a matter of fact, we know that when an enlisted man enlists he takes a contract to serve the Government for a fixed period of years. How the Comptroller General or anybody else could say that an enlisted man in the Army or Navy holds an office under the Government passes my comprehension.

"Mr. FLETCHER. Does the bill permit a retired enlisted man to draw his three-fourths pay and at the same time draw his salary?

Mr. WADSWORTH. Certainly, if he is serving the Government in another capacity. That ought to be the case.

"The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed."

The bill however, was amended on the floor of the House as follows (CONGRESSIONAL RECORD, volume 65, p. 9137):

"The Clerk read the bill, as follows:

" *'Be it enacted, etc.*, That section 2 of the legislative, executive, and judicial appropriation act, approved July 31, 1894, is amended by adding at the end thereof a new sentence to read as follows: "Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard shall not be construed to hold an office within the meaning of this section." '

"Mr. STEPHENS. Mr. Speaker, I desire to offer the following amendment.

"The Clerk read as follows: Amendment by Mr. STEPHENS: Strike out all of the printed bill after the word 'follows', in line 6, and insert in lieu therof the following: 'Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement.'

"The SPEAKER. The question is on agreeing to the amendment.

"The amendment was agreed to.

"The bill as amended was ordered to be read a third time, was read the third time, and passed."

The amendment of the House was adopted and concurred in by the Senate as follows (CONGRESSIONAL RECORD, volume 65, p. 9279):

"RETIRED ENLISTED MEN OF THE ARMY

"The Presiding officer laid before the Senate, the amendment of the House of Representatives to the bill (S. 2450) to amend section 2 of the Legislative, Executive, and Judicial Appropriation Act approved July 31, 1894, which was, on page 1, line 6, to strike out all after 'follows:' down to and including 'section', in line 8, and to insert in lieu thereof:

" 'Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement.'

"Mr. WADSWORTH. I move that the Senate concur in the amendment of the House. It relates to the eligibility of persons in a retired status in the military service being employed in the civil service.

"The amendment was concurred in."

It should be noted in connection with the passage of this act that the first argument was that enlisted men do not hold offices under the Government of the United States, but enter into a contract of service. They, herefore, are contractors and not office holders. The conclusion is that the prohibitions of the 1894 act would not and should not apply to enlisted men. The contrary holding by the Comptroller General therefore was incorrect. (See 2 Compt. Gen. 373 supra.) Although this seemed to be the basic theory of the bill, the House amendment in part shifted from this basis to what is obviously an idea of rewarding some officers, i.e., those who have performed extraordinary service and have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty. Only such officers apparently are to be construed as not holding another office during such retirement. All other officers would therefore be presumed to hold an office provided they were retired merely for age.

X. THE TEST, 1924–62

By 1924, the broad principle of prohibiting dual officeholding and double salaries had become generally established in our law. Although the basic principle has not been revised or changed since that date, exceptions have been made to take care of obvious situations.

During this period, the doctrine has been subjected to the test of both depression and total war. In the first decade since 1924, there was a period of prosperity when undoubtedly little attention was paid to the doctrine. Jobs were plentiful, money easy and everybody was on a merry-go-round of prosperity. Then came the depression of 1930 when the idea of "spread the work" was foremost, since unemployment mounted to alarming proportions. The doctrine certainly fitted into that period. The next decade included a long, slow, and painful recovery from the ravages of the depression. This was followed by a period of prosperity accentuated by total war. In the depression period, manpower has been plentiful but jobs scarce. Total war brought the reverse, plenty of jobs but manpower in short supply. The third decade since 1924 found us with the reverse problem still unsolved. The advent of the cold war and the birth of atomic energy have all contributed their part to the continuance of the problem.

During this period a number of opinions and decisions have been rendered by the Attorney General and the Comptroller General of the United States respecting dual employment and compensation in connection with both civilian employees and Armed Forces personnel. While none of the opinions and decisions actually change, by way of interpretation, the basic principles of the doctrine as developed up to 1924, they do represent a refinement of the doctrine, by way of exception, under the stresses of both depression and total war. Digests of the opinions and decisions, divided into two groups, those affecting civilian employees and those affecting Armed Forces personnel, together with legislation proposing reforms, follow:

1. Civilian employees

(Chief, Bureau of Efficiency, Board of Actuaries, Civil Service Retirement Act, 34 Atty. Gen. 490, May 23, 1925): "Chief of the Bureau of Efficiency may be appointed a member of the Board of Actuaries under the Civil Service Retirement Act, to serve without compensation and such appointment will not be in violation of any statute."

(Civilian Army employees, court-martial reports, 5 Compt. Gen. 374, Nov. 23, 1925): "Civilian employees of the Quartermaster Corps of the Army are not entitled to extra compensation for services rendered as court-martial reporters when such extra compensation, combined with their regular salary, exceeds the rate of $2,000 per annum."

(Member of Alaska Legislature, Alaska Railroad employees, 5 Compt. Gen. 806, Apr. 8, 1926): "As the act of August 24, 1912, 37 Stat. 513, prohibits an officer or employee of the United States from being a member of

the Alaska Legislature, and the act of July 31, 1894, 28 Stat. 205, prohibits any employee of the United States whose salary amounts to $2,500 per annum from holding any other position to which compensation is attached, an employee of the Alaska Railroad receiving compensation of $2,500 or more per annum vacates his position with the railroad by his election to and taking his seat in the Alaska Legislature."

(National Sesquicentennial Exhibition Commission, 5 Compt. Gen. 891, May 4, 1926): "Under the provisions of the joint resolution of March 15, 1926, 44 Stat. 207, employees of the Government may be paid compensation in addition to their regular compensation for work performed after regular office hours in preparing exhibits for the National Sesquicentennial Exposition, upon the certification as to the necessity for such work, notwithstanding the provisions of section 1765, Revised Statutes, and the act of May 10, 1916, 39 Stat. 120, to the contrary."

(Compensation quarters-in-kind, 6 Comp. Gen. 359, Nov. 20, 1926): "The allowance of quarters-in-kind free of charge, in addition to the fixed rate of compensation specified in the schedule of wages for the regular daytime positions, is prohibited as compensation to employees of the Naval Establishment for duties performed outside of regular working hours, either on the basis that the duties outside regular working hours are separate and distinct from the regular duties of the employees, or on the basis that the duties outside regular work hours are not incompatible with employment in the regular daytime positions, but as extra duties."

(Two positions in same department, 6 Comp. Gen. 435, Jan. 4, 1927): "An employee may not be paid the salary of two separate and distinct positions in the same department or establishment even though the combined salaries thereof do not exceed the rate of $2,000 per annum."

(Department of State, Public Health Service, 6 Comp. Gen. 732, May 11, 1927): "An employee of the Department of State receiving an annual salary is prohibited by sections 1764 and 1765, Revised Statutes, from receiving any extra compensation for services rendered the Public Health Service after office hours where such additional compensation was not fixed in advance by law or regulation."

(Postal service employees, 8 Compt. Gen. 487, Mar. 13, 1929): "Under the provisions of section 1 of the act of March 1, 1929, 45 Stat. 1441, dual employments are authorized when both positions are in the postal Service, regardless of the rates of compensation, provided the total compensation actually paid for all services for any one fiscal year does not exceed $2,000. The act is not applicable to cases where one or both positions are in some other branch of the Government service, 8 Compt. Gen. 262 modified only in so far as postal service employees are concerned."

Postal service employees, 8 Compt. Gen. 578, May 2, 1929):

"A postmaster may not serve as substitute or temporary rural carrier and be paid therefor.

"A postmaster, assistant postmaster, or other postal employee may not enter into contract to carry mail or perform service on a star route.

"A rural carrier may serve as mail messenger and be paid not in excess of $300 for any one year provided his total compensation from postal funds does not exceed $2,000 for any one fiscal year.

"A contractor or subcontractor for star-route service may not be employed as substitute or temporary rural carrier."

(Postal service employees, 8 Compt. Gen. 611, May 18, 1929): "Section 2 of the act of March 1, 1929, 45 Stat. 1442, authorizing the Comptroller General of the United States to relieve postmasters from unlawful payments made by them to 'mail messengers, postal employees, and other employees of the United States employed in post offices' for services in a dual capacity, is not applicable to relieve a postmaster from refunding Government funds he received for carrying a rural route during the absence of the regular carrier."

(Postal service employees, 8 Compt. Gen. 662, June 24, 1929): "A special-delivery messenger may enter into a contract for mail messenger service and receive therefor in excess of $300 in any one year, provided he is the lowest bidder and his total compensation for all services does not exceed $2,000 for any one fiscal year."

(Administrative furlough, 12 Compt. Gen. 76, July 19, 1932):

"In view of the terms of section 1765, Revised Statutes, and the act of July 31, 1894, 28 Stat. 205, a civilian employee of the Government holding a position, the salary attached to which amounts to $2,500 per annum or more, may not be employed in any other position under the Government with compensation attaching during the period of administrative furlough without pay required under the terms of section 216 of the act of June 30, 1932. 47 Stat. 407.

"In view of the terms of section 6 of the act of May 10, 1916, as amended by the act of August 29, 1916, 39 Stat. 582, a civilian employee whose compensation is at a rate less than $2,500 per annum may not be employed in a position under another department or office of the Government during the period of administrative furlough without pay required by section 216 of the act of June 30, 1932, 47 Stat. 407, if the combined rate of compensation under the two positions is in excess of $2,000 per annum."

(Home Owners Loan Corporation and National Recovery Administration employees, 14 Compt. Gen. 822, May 10, 1935): "Dual compensation statutes disqualify for further appointment under the National Housing Act those Federal officers and employees already receiving a rate of compensation under any other statute, including those applicable to the Home Owners' Loan Corporation, and the National Recovery Administration, which, together with the rate proposed to be paid by the Federal Housing Administration would exceed the maximum joint salary rate prescribed by the applicable dual compensation statute to be received in more than one Federal office or position."

(Federal Land Bank appraisers, Farm Credit Administration, 15 Compt. Gen. 184, Sept. 9, 1935):

"The authority contained in the act of May 17, 1935, 49 Stat. 247, making appropriation for the Farm Credit Administration for special reports by personal service without regard to the provisions of any other act; * * * does not authorize the employment of temporary personal services without regard to the statutes relating to dual employment and Federal land-bank appraisers, appointed on a permanent basis with annual salaries in excess of $2,000 per annum, may not, during leave of absence without pay, hold any other permanent or temporary office or position under the administrative appropriation for the Farm Credit Administration.

"Federal land-bank appraisers are 'required by law to be exclusively engaged upon some specific work' within the meaning of section 3, act of May 28, 1896, 29 Stat. 179, and when employed full time on an annual basis may not be temporarily detailed or assigned to other duties."

(Fees from one Department, "per annum" from another, 15 Compt. Gen. 828, Mar. 21, 1936): "The receipt of fees for services rendered a Government Agency while employed by another such Agency on a per annum basis is prohibited by section 2 of the act of July 31, 1894, 28 Stat. 205, but said statute is not for application to reimbursement of traveling expenses incurred on behalf of the Government while so employed."

(Inspectors of hulls, Commerce Department, 16 Compt. Gen. 813, Mar. 5, 1937): "Inspectors of hulls of the Commerce Department may be appointed as deputy collectors of customs for the purpose of issuing 'continuous discharge books' to seamen on merchant vessels of the United States as required by section 3 of the act of June 25, 1936, 49 Stat. 1934, notwithstanding their compensation is in excess of $2,500 per annum, provided the appointments are without compensation."

(Contract fee basis, 16 Compt. Gen. 909, Apr. 1, 1937): "The employment by one Federal agency on a contract fee basis of a person serving under another Government agency in a part-time position on a per annum pay basis is not prohibited by the dual compensation statutes-section 1765, Revised Statutes; section 2, act of July 31, 1894, 28 Stat. 205; and section 6, act of May 10, 1916, as amended by the act of August 29, 1916, 29 Stat. 120, 582, notwithstanding the combined compensation of the two employments exceeds $2,000, or either of them exceeds $2,500 per annum, and a low bid for such contract services on a fee basis may not be rejected because of such other part-time employment, 15 Compt. Gen. 751; id. 828, amplified."

(Alien property custodian employees, 19 Compt. Gen. 751, Feb. 26, 1940): "While the moneys available to the Alien Property Custodian appointed to administer the Trading With the Enemy Act of October 6, 1917, 40 Stat. 411, for the payment of expenses of his office were derived from funds, etc., 'due or belong to an enemy, or ally of enemy,' the position of chief of accounts in his office was nevertheless an 'office' within the meaning of the act of July 31, 1894, 28 Stat. 205, prohibiting appointment of a person holding an 'office' with an annual salary of $2,500 to another 'office' to which compensation is attached unless specially authorized by law. Question whether appointment to said position of employee holding an 'office,' with salary of more than $2,500 per annum, was valid or void because of the said prohibition discussed and determined in favor of its validity, thus requiring refund of salary paid under the first 'office' after the second appointment. Various dual compensation acts—sections 1763, 1764, 1765, Revised Statutes; and acts of July 31, 1894, and May 10, 1916, as amended—discussed."

(Federal Housing Administration employees, 10 Compt. Gen. 926, May 14, 1940): "Compensation payments to a person employed by the Federal Housing Administration during a period of employment under another Government agency need not be questioned as in violation of the Dual Compensation Act of May 10, 1916, as amended, in view of the broad personnel appointment, etc., authority vested in the Federal Housing Administrator by section 1 of the National Housing Act, 48 Stat. 1246."

(Annual salary, fees, 22 Compt. Gen. 312, Oct. 3, 1942): "The employment by one Government agency of a medical adviser on an annual salary basis, who is also employed, whether by contract or otherwise, by another Government agency as a consultant on a fee basis does not constitute a violation of the restriction against the holding of more than one office contained in the act of July 31, 1894, as amended (15 Compt. Gen. 828, modified), nor does such employment constitute a violation of the dual compensation restrictions of section 1765, Revised Statutes, and the act of May 16, 1916, as amended."

(Nurses aids, 23 Compt. Gen. 900, May 27, 1944):

"In the case of full-time Federal employee receiving $2,000 or more per annum, the payment of $1 per annum compensation for services under appointments as nurses' aids outside of their regular hours of work would

constitute payment of 'salary' in contravention of the prohibition in the dual compensation statute of May 10, 1916, as amended, against the payment of more than one salary to a person if the combined amount of the salaries exceeds $2,000 per annum.

"The furnishing of subsistence and lodging in kind, when necessary for the benefit of the Government—to full-time Federal employees while they are serving as nurses' aids in Government hospitals outside of their regular hours of work does not constitute 'salary' within the meaning of the prohibition in the act of May 10, 1916, as amended, against the payment of more than one salary to a person if the combined amount of the salaries exceeds $2,000 per annum; nor is it to be regarded as payment of salary or allowances within the meaning of the other dual compensation statutes (secs. 1764 and 1765, Rev. Stat., and the act of July 31, 1894, as amended).

"Part-time or intermittent employment of a regular full time Federal employee as a nurses' aid in a Government hospital does not constitute the 'holding of an office to which compensation is attached' within the meaning of the act of July 31, 1894, as amended, prohibiting persons whose annual compensation in one office amounts to $2,500 or more from holding another office to which compensation is attached.

"A nurses' aid employed in a Government hospital on a part-time or intermittent basis is not an 'officer or clerk' and, therefore, where regularly employed Federal personnel are engaged, outside their regular hours, on a part time or intermittent basis as such nurse's aids, the 'additional services' prohibition in section 1764, Revised Statutes, with respect to officers and clerks has no application.

"Employment of full time Federal employees as nurses' aids in Government hospitals outside of their regular hours of work would not be incompatible with services performed in the regular positions and, hence, would not be in contravention of the additional compensation restrictions of section 1765, Revised Statutes, which have no application in the case of separate and distinct compatible employments.

"The practice of authorizing the payment of compensation at the rate of $1 per annum is unnecessary unless required by some statute or appropriation act other than section 3679, Revised Statutes, as amended, prohibiting the acceptance of voluntary service for the Government, so that the payment of $1 per annum to Federal employees serving as volunteer nurses' aids in Government hospitals outside of their regular hours of work is not required."

(Within-grade salary advance, 24 Compt. Gen. 52, July 19, 1944):

"If there have been met all of the terms and conditions necessary to authorize a within-grade salary advancement under the act of August 1, 1941, in one of the two positions which an employee holds, the advancement may not be delayed or defeated by action of the administrative office or the employee even though such advancement may preclude the employee from remaining in the position because of the operation of the act of July 31, 1894, as amended, prohibiting persons whose annual compensation in one office amounts to $2,500 or more from holding another office to which compensation is attached.

"In view of the provision in the act of July 31, 1894, as amended, prohibiting persons whose annual compensation in one office amounts to $2,500 or more from holding another office to which compensation is attached, the holding by a retired Army officer of a civilian position became invalid on the date the salary attaching to the position equaled $2,500 per annum due to a within-grade salary advancement pursuant to the act of August 1, 1941, and the salary paid to him in such position on and after that date, having been made in direct contravention of law, must be refunded by him."

(State-Federal agricultural extension service employees, 25 Compt. Gen. 868, June 13, 1946): "Federal funds granted to a State under the act of May 8, 1914, for cooperative agriculture extension work, upon being properly receipted for by the State, lose their identity as Federal funds and become funds of the State, and therefore, the concurrent employment by the Federal Government of a State employee paid from such funds need not be regarded as in contravention of the dual compensation and employment statutes (5 United States Code 58, 62, and 69), provided the dual Federal and State employment prohibition of Executive Order No. 9, dated January 17, 1873, is not for application."

(State and Federal positions, 29 Compt. Gen. 277, Dec. 15, 1949 (B-83536)): "The appointment of a full time Federal employee with a salary in excess of $2,500 to a position as part-time administrative assistant in a State National Guard would not result in the holding of more than one office under the Federal Government in violation of the dual employment restrictions of the act of July 31, 1894, as amended, or of the dual compensation limitations of section 1763, Revised Statutes; nor is the latter employment incompatible with the former so as to constitute a violation of the additional compensation prohibitions of section 1765, Revised Statutes."

(Dual offices—leave status, 30 Compt. Gen. 386, Mar. 28, 1951):

"An employee on leave without pay from a Government department may be employed by a Government commission of temporary character without contraventing the act of July 31, 1894, as amended, prohibiting persons whose annual compensation in one office amounts to $2,500 or more from holding another office to which compensation is attached unless specially authorized by law.

"An employee placed in a leave without pay status from one Government agency is not prohibited from employment with another agency by the dual compensation act of May 10, 1916, as amended, which prohibits the receipt of more than one salary of the combined amount of the salaries exceeds $2,000 per annum."

(Double salaries—aggregate rate governs, 30 Compt. Gen. 525, June 26, 1951: "Under the dual compensation act of May 10, 1916, as amended, prohibiting the use of appropriated funds for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of $2,000 per annum, the aggregate rate of compensation and not the total amount received in any particular year governs the application of the act, so that a person who is in receipt of two salaries covering the same period of time the aggregate rate of which exceeds the sum of $2,000 per annum is required to refund one of the salaries."

(Congressional committee—Government employees, 31 Compt. Gen. 414, Feb. 19, 1952): "An employee on leave without pay from a Government agency may be employed by a temporary Congressional Committee without contravening the act of July 31, 1894, as amended, prohibiting persons whose annual compensation in one office amounts to $2,500 or more from holding another office to which compensation is attached unless specifically authorized by law."

(District of Columbia judges—reemployment, 31 Compt. Gen. 505, Apr. 10, 1952):

"In view of the dual compensation restriction in the act of August 29, 1916, as amended, a judge of the Municipal Court of Appeals of the District of Columbia who receives the retirement salary provided under the act of April 1, 1942, may not in addition thereto receive the compensation attaching to a position or office with the Federal Government nor may he waive the retirement salary for the purpose of accepting said compensation.

"A judge of the Municipal Court of Appeals of the District of Columbia, who receives the retirement salary provided under the act of April 1, 1942, is not prohibited by the dual compensation and employment statutes from accepting compensation as an employee of a State or municipal government or agency having no connection with the Federal or District of Columbia Governments.

"In view of the dual compensation restriction in the act of August 29, 1916, as amended, a judge of the Municipal Court of Appeals of the District of Columbia who receives the retirement salary provided under the act of April 1, 1942, may not in addition thereto receive the compensation of a position or office with a territorial government such as Alaska, the Virgin Islands, Puerto Rico, or Hawaii.

"A judge of the Municipal Court of Appeals of the District of Columbia who receives the retirement salary provided under the act of April 1, 1942, may accept compensation as an employee of an international agency, such as the United Nations, International Bank for Reconstruction and Development of the International Labor Organization, without violating the dual compensation and employment statutes."

(Scholarship and pay, 31 Compt. Gen. 670, June 19, 1952): "An employee who was granted a 1-year leave of absence from his position to accept a scholarship of limited duration, awarded by the Department of State and Board of Foreign Scholarships pursuant to the act of August 1, 1946, and who during the leave of absence received payment for a scrap survey conducted for his agency while drawing an allowance under the scholarship is not to be considered as having violated any of the dual employment or compensation statutes."

(District of Columbia teachers, 33 Compt. Gen. 463, Apr. 16, 1954): "The Dual Compensation Act of 1916, which prohibits the payment of combined salaries to any Government employee at a rate in excess of $2,000 per annum is applicable to District of Columbia schoolteachers, therefore an employee who was employed as a District of Columbia teacher while on annual leave prior to separation from the Government, and whose leave payment and compensation as a teacher exceeded the $2,000 per annum rate, is required to refund one of the salaries received."

(Public Health Service officers, 36 Compt. Gen. 243, Sept. 27, 1956): "Members of the Commissioned Corps of the Public Health Service who are receiving retired pay which amounts to $2,500 or more a year are prohibited by the act of July 31, 1894, 5 U.S.C. 62, from holding any office or position under the Federal Government to which compensation attaches, and the exemption relating to members of the Army, Navy, Air Force, Marine Corps, or Coast Guard who are retired for physical disability is not applicable to officers in the Public Health Service."

(Civilian employees—Dual Compensation—Additional part time, intermittent employments, 37 Compt. Gen. 64, July 31, 1957):

"Under the Dual Compensation Act of May 10, 1916, 5 U.S.C. 58, which prohibits the availability of appropriations for payment to any person receiving more than one salary when the combined amount exceeds $2,000 per annum, the courts have interpreted the word 'salary' as not applying to persons employed on an intermittent basis, and, therefore, intermittent employments are now held to be outside the purview of such prohibition.

"Part-time employments are subject to the Dual Compensation Act of May 10, 1916, 5 U.S.C. 58, which prohibits the availability of appropriations for payment to any person receiving more than one salary when the combined amount exceeds $2,000 per annum.

"The fact that employees are in a leave-without-pay status while employed in other Federal positions does not exempt them from the dual compensation act of May 10, 1916, 5 U.S.C. 58, which prohibits the availability of appropriations for payment to any person receiving more than one salary when the combined amount exceeds $2,000 per annum.

"Although employees hired on part-time basis may not be appointed to other part-time positions when the $2,000 annual salary limitation in the dual compensation act of May 10, 1916, 5 U.S.C. 8, is exceeded, they may serve in intermittent positions; and, likewise, employees hired on an intermittent basis may serve in other intermittent or part-time positions without regard to the 1916 dual compensation act prohibition.

"Forest Service employees, who are employed on a continuous and/or intermittent basis year after year and who work full time during the field season and at the end of the season remain on rolls in a nonpay status, may not during period of full-time employment hold a part-time position if the $2,000 salary limitation in the dual compensation act of May 10, 1916, 5 U.S.C. 58, is exceeded, but during the period outside of the field season they may be considered as in a furlough status and thus the 1916 dual compensation prohibition would not be violated by the holding of a part-time position.

"In view of misunderstanding which has prevailed over the use of the terms 'part time' and 'intermittent' in connection with the dual compensation prohibition in the act of May 10, 1916, 5 U.S.C. 58, recovery of compensation which has been paid in those cases which are not held to be in violation of the statute will not be required."

(Federal Employees Salary Increase Act of 1958—Retroactive increase effect on dual compensation limitation, 38 Compt. Gen. 103, Aug. 4, 1958): "Where a retroactive salary increase payment authorized for classified positions under section 17(a) of the Federal Employees Salary Increase Act of 1958 would cause an employee, who is also in receipt of military retired pay, to be indebted to the United States by reason of increasing the civilian salary and military retired pay beyond the $10,000 dual compensation limitation in 5 U.S.C. 59(a), the effect would be to create an obligation or destroy a vested right of the employee by the retrospective operation of law contrary to the established rule of statutory construction, therefore the retroactive provisions of section 17(a) do not have to be applied in such a situation."

(Civilian employees on military duty—Tariff Commissioner—Dual Office Prohibitions, 38 Compt. Gen. 155, Aug. 26, 1958): "Although 15 days of a 6-week period of active military duty as a reserve officer performed by a member of the Tariff Commission who holds a Presidential appointment, confirmed by the Senate, and who is specifically prohibited under 19 U.S.C. 1330(c) from engaging in any other employment while holding the position of commissioner is specifically authorized under 5 U.S.C. 30r, during the period of military duty in excess of 15 days in one calendar year, the reserve officer is required under 5 U.S.C. 30r(d) to be considered an officer of the United States and since as Commissioner he is not on a fixed leave basis his status for active duty military pay and allowances is too doubtful to permit payment; however, consideration of the service in excess of 15 days as gratuitous service would not preclude receipt of compensation payable as Tariff Commissioner."

(Civilian personnel—Double compensation—Foreign post, etc., allowances, 40 Compt. Gen. 603, Apr. 28, 1961): "In the absence of any indication in the legislative history of the act of July 25, 1958, that the 25-percent tropical differential paid under section 7 of the act to an employee in the Canal Zone, who is also in receipt of military retired pay under 10 U.S.C. 3914, is to be regarded as basic compensation for purposes other than those specifically mentioned in section 9 of the act, the differential should not be included as a part of the employee's compensation in the computation of the $10,000 limitation on civilian salary and retired pay imposed under the dual compensation restriction in section 212 of the Economy Act of 1932, 5 U.S.C. 59a."

(Service credit for civilian retirement, 41 Compt. Gen. 460, Jan. 16, 1962): "To permit a retired member of the uniformed services, who qualified for a civil service retirement annuity for former Members of Congress on the basis of credit for active military service and congressional service, to have the military service excluded from the computation of the annuity in order to receive a reduced annuity and disability retired pay would be to give the Member a double benefit based on the same military service contrary to section 401 of the Civil Service Retirement Act, 5 U.S.C. 2253(b), which precludes a Member who is awarded retired pay on account of military service from having the military service included in estabilshing entitlement to the annuity, unless the retired pay is received on account of a service-connected disability incurred in combat or caused by an instrumentality of war; therefore, the Member whose disability does not come within either of those two categories may not be paid disability retired pay."

(Waiver, 461 Compt. Gen., Jan. 16, 1962): "A retired member of the uniformed services who when he applied for a civil service retirement annuity based on service as a Member of Congress and on active military service was entitled to receive disability retired pay but who was not eligible for the civilian annuity without the credit for military service must be regarded as actually or constructively waiving or relinquishing his right to receive retired pay in order to receive the larger member annuity.

(Civil Service Commission, 41 Compt. Gen. 461, Jan. 16, 1962): "Although the question of whether a member of the uniformed services entitled to disability retired pay may be paid a reduced civil service retirement annuity for a Member of Congress based only on nonmilitary services when his active military service was added to the congressional service to qualify him for the annuity is not a matter for decision by the Comptroller General of the United States since what constitutes creditable service for the Civil Service Retirement Act is primarily for determination by the Civil Service Commission, the question of the Member's entitlement to retired pay based on military service is for decision by the Comptroller General."

(Compensation: Double—Holding two offices—Civilian position and active military status, 41 Compt. Gen. 478, Jan. 29, 1962):

"Although the dual office prohibition in the act of July 31, 1894, 5 U.S.C. 62, does not preclude a civilian employee from simultaneously holding a commission in the Public Health Service Reserve in an inactive status, when the employee is on active duty as a Public Health Service Reserve officer he is holding an office with compensation attached within the meaning of the 1894 act and, therefore, the act prevents the person from legally holding his civilian position (even though in a leave-without-pay status) while on active duty as a commissioned officer in the Public Health Service Reserve.

"Since the Reserve Corps of the Public Health Service is not a component of the Armed Forces, a commissioned Public Health Service Reserve officer who is also a civilian employee is not entitled to leave of absence for military duty or to the dual office exemption provided for members of reserve components and National Guardsmen by section 29 of the act of August 10, 1956, 5 U.S.C. 30r; therefore, when the employee serves on active duty with pay as a commissioned officer in the Reserve Corps of the Public Health Service he vacates his civilian position and upon return to an inactive Reserve status he must be reappointed to the civilian position, there being no authority to retain him in the civilian position in a leave-without-pay status, or to permit him to waive compensation of the civilian position.

"The term 'other duty' in section 501(b) of the Career Compensation Act of 1949, as amended, 37 U.S.C. 301(b), authorizing additional training or other duty, without pay, for members of Reserve components of the Armed Forces, including the Reserve Corps of the Public Health Service, is interpreted as including 'active duty'; therefore, an employee who serves on active duty as a commissioned officer in the Reserve Corps of the Public Health Service, without pay, does not hold another office to which compensation is attached within the meaning of the dual office prohibition in the act of July 31, 1894, 5 U.S.C. 62, and is not in receipt of more than one salary within the double compensation restriction in the act of May 10, 1916, 5 U.S.C. 58.

"The detail of a civilian employee to the Public Health Service for a brief period (2 weeks), either on a reimbursable or nonreimbursable basis, for such duties as the Public Health Service may specify would not be legally objectionable so long as the employee performs the duties on the same basis that duties would ordinarily be performed by any civilian employee detailed from one department or agency to another under section 601 of the Economy Act of June 30, 1932, 31 U.S.C. 686; however, if the employee were to be 'detailed' to the Public Health Service to perform duties in his status as a commissioned officer of the Reserve Corps of the Public Health Service, he would be regarded as a Reserve officer in an active duty status and could not be considered to be on detail from his civilian position."

2. Armed Forces personnel

(Navy officer retired for disability in line of duty, 3 Compt. Gen. p. 1009, June 28, 1924): "Navy officer retired for incapacity incurred in line of duty may be employed in a civil position, not in the Diplomatic or Consular Service, irrespective of the salary thereof, and at the same time received his retired pay from the Navy."

(Army enlisted man on active duty, 5 Compt. 408, Dec. 5, 1925): "Where a retired enlisted man of the Army is detailed to active duty pursuant to law and is in receipt of active duty pay he may not, at the same time, be paid from Federal funds the pay and allowances of any other military office."

(Naval officer on active duty, 5 Compt. Gen. 548, Jan. 29, 1926): "A retired officer of the Navy on active duty, whose salary is in excess of $2,500 per annum is prohibited by the act of July 31, 1894, 28 Stat. 205, from holding another position to which compensation is attached."

(National Guard enlisted men—caretakers, 6 Compt. Gen. 683, Apr. 20, 1927): "The employment of enlisted men of the National Guard in the dual capacity of caretakers of material, animals, and equipment of the National Guard and caretakers of target ranges, and the payment of compensation for both employments, are in violation of the provisions of section 1765, Revised Statutes."

(Emergency officers—Panama Canal, 9 Compt. Gen. 221, Nov. 23, 1929):

"A retired emergency officer who is entitled to retired pay under the act of May 24, 1928, 45 Stat. 735, is not a person 'in military or naval service of the United States' within the meaning of section 4 of the Panama Canal Act of August 24, 1912, 37 Stat. 561.

"The act of May 24, 1928, 45 Stat. 735, is a part of the provisions made for disabled veterans of the World War, and in the construction of statutes imposing disabilities on persons in the military or naval service with respect to employment in the Federal

civil service the act of May 24, 1928, should have a construction in keeping with its purpose."

(Army officer—Bureau of the Census, 10 Compt. Gen. 85, Aug. 23, 1930): "The employment under the Census Bureau of a retired officer of the Army, who was retired at his own request after 30 years' service, is in direct contravention of the act of July 31, 1894, 28 Stat. 205, as amended by the act of May 31, 1924, 43 Stat. 245, and is unauthorized."

(Army officer—Commissioner of the District of Columbia, 36 Atty. Gen. 388, Mar. 4 1930): "A retired Army officer, who has the qualifications of citizenship and residence specified in section 2 of the Act of June 11, 1878 (20 Stat. 103), is eligible for appointment of the office of Commissioner of the District of Columbia."

(Military personnel—National Recovery Administration, 13 Compt. Gen. 60, Aug. 30, 1933):

"The National Recovery Administration may employ retired enlisted personnel, who have been retired on enlisted service only, and fix their rates of compensation for such civilian service on the same basis as that for any other officer or employee without restriction other than the value of the services and such employees would be entitled to continue to receive their retired pay.

"The National Recovery Administration may employ retired commissioned and warrant officers of the Army, Navy, Marine Corps, Coast Guard, and Coast and Geodetic Survey, who were retired for injuries incurred in battle or for injuries or incapacity incurred in line of duty, but with the exception of those retired for disability incurred in combat with an enemy of the United States whose rate of compensation for civilian service may be fixed without regard to the restrictions of the dual compensation status, the rate of compensation paid for such civilian service, when combined with the rate of retired pay received, may not exceed $3,000 per annum.

"The National Recovery Administration may employ retired commissioned and warrant officers who were retired for causes other than disability, that is 30 years' service or for age, only if the rate of retired pay and the rate of compensation fixed for the civilian office or position are each less than $2,500 per annum, but under section 212 of the Economy Act the officer or employee in such case could actually receive a combined rate of retired pay and civilian compensation not in excess of $3,000 per annum.

"The National Recovery Administration may not employ retired commissioned and warrant officers who were retired for causes other than disability incurred in line of duty if the rate of either the retired pay or the compensation fixed for the civilian position is $2,500 per annum or more."

(Army and Navy officers (for age) holding temporary positions, 14 Compt. Gen. 68, July 25, 1934): "An officer of the Army, retired after 30 years' service, or an officer of the Navy, retired after 40 years' service, is not prohibited by the act of July 31, 1894, 28 Stat. 205, as amended, from holding a temporary Federal office or position under appointment by the President or the head of a department, notwithstanding his retired pay is at a rate in excess of $2,500 per annum, and if both the retired pay and civilian compensation exceed the rate of $3,000 per annum, he may elect, under the terms of section 212 of the Economy Act, for the period of temporary civilian employment, between his retired pay and the compensation fixed for the temporary civilian office or position."

(Naval officer (for age) Assistant Deputy Commissioner of Internal Revenue, 14 Compt. Gen. 179, Aug. 29, 1934): "Pursuant to the act of July 31, 1894, 28 Stat. 205, the appointment of a retired naval officer, retired for length of service, whose retired pay is in excess of $2,500 per annum, to the position of Assistant Deputy Commissioner, Bureau of Internal Revenue, a permanent fulltime position, was void ad initio, and payment of compensation in the civilian position is not authorized. [Affirmed, 14 Compt. Gen. 289, Oct. 6, 1934]."

(Chief boatswain, Navy, 14 Compt. Gen. 842, May 22, 1935): "A retired chief boatswain of the Navy employed in a civilian office or position whose retired pay is based on longevity, including wartime commissioned service subsequent to retirement, is receiving pay 'for or on account of services as a commissioned officer,' within the meaning of section 212 of the Economy Act of June 30, 1932 (47 Stat. 406), which limits his combined rate of retired and civil pay to $3,000 per annum.

(Navy nurses, 15 Comp. Gen. 74, July 24, 1935): "A retired nurse of the Navy retired for disability is within the inhibition of section 6 of the act of May 10, 1916, as amended by the act of August 29, 1916, 39 Stat. 582, being neither a retired officer nor a retired enlisted man within the express exception to that statute, and accordingly may not be employed in a civilian position with a salary rate which, together with the annual rate of retired pay, would exceed $2,000 per annum."

(Naval Officer, "in line of duty," 39 Atty. Gen. 94, Aug. 17, 1937): "A naval officer retired on account of incapacity incurred in line of duty may be appointed Director of the Bureau of Marine Inspection and Navigation without affecting his right, subject to the limitations in United States Code, title 5, section 59(a), to receive retired pay."

(Officers' Reserve Corps, 39 Atty. Gen. 197, Oct. 26, 1938):

"Section 1222 R.S. does not prohibit appointment of an Army officer on the active list to a civilian office, but acceptance of such office vacates his commission in the Army.

"The section is inapplicable, under circumstances stated, to an officer of the Reserve Corps on leave of absence without pay from active duty with the Army.

"Section 2, act of July 31, 1894, prohibiting the holding of more than one office, is inapplicable where the annual compensation attached to each office amounts to less than $2,500."

(Army warrant officer, reclassification of position, 23 Compt. Gen. 445, Dec. 16, 1943):

"The reclassification of a position, which is finally consummated, from grade CAF–6, $2,300 per annum, to grade CAF–7, $2,600 per annum, may not be regarded as void merely because the incumbent a retired Army warrant officer, is prohibited by the dual compensation statute of July 31, 1894, as amended, from receiving salary in a civilian position at the rate of $2,500 or more per annum, and, therefore, the said retired warrant officer may not be deemed to have continued in grade CAF–6 after the reclassification but, rather, he is required to refund the entire amount of salary paid in grade CAF–7 at the rate of $2,600 per annum (21 Compt. Gen. 38, distinguished).

"A retired Army warrant officer who has been appointed to a civilian position and has received the salary thereof at a rate in excess of $2,500 per annum, in contravention of the dual compensation statute of July 31, 1894, as amended, may not elect to retain the salary of the civilian position and refund his retired pay for the period involved, but, rather, the civilian salary paid must be refunded.

"The words 'salary or annual compensation' as used in the dual compensation statute of July 31, 1894, as amended, which provides that 'no person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office * * *' refer to basic compensation of $2,500 per annum, which is exclusive of overtime compensation authorized to be paid under the War Overtime Pay Act of 1943."

(Coast Guard officer—Merchant seaman, 24 Compt. Gen. 344, Nov. 3, 1944): "In view of the provisions of section 1(a) of the act of March 24, 1943, excluding seamen employed on vessels owned or operated by the War Shipping Administration for the operation of certain statutes applicable to Federal employees generally, thus indicating a legislative purpose to preserve the private-employee status of such seamen, a retired Coast Guard officer so employed is not to be regarded as within the limitation of section 212 of the act of June 30, 1932, respecting the concurrent payment of retired pay and civilian compensation in an office or position under the U.S. Government."

(Marine Corps officer—U.S. minister, 24 Compt. Gen. 467, Dec. 20, 1944): "Irrespective of the fact that a retired Marine Corps officer may be receiving retired pay 'for disability incurred in combat with an enemy' and, hence, is within the exception to the dual compensation restrictions of section 212 of the act of June 30, 1932, as amended, such retired pay is 'salary' within the meaning of the prohibition in the Department of State Appropriation Act, 1945, against the receipt by ambassadors and ministers of any other salary from the United States, so as to preclude the officer from receiving retired pay while receiving the salary of a U.S. minister."

(Fleet Reserve members, retired enlisted men and warrant officers, 25 Compt. Gen. 521, Jan. 11, 1946):

"In view of the provisions of section 4 of the Naval Reserve Act of 1938, permitting enlisted men transferred to the Fleet Reserve to receive the compensation attached to civilian employment in addition to pay and allowances accruing under said act, the dual compensation provisions of section 212 of the act of June 30, 1932, have no application to prevent such reservists from being paid the retainer pay authorized by said 1938 act in addition to civilian compensation, regardless of the civilian salary rate or whether retainer pay be regarded as 'retired pay' under said section 212 or whether commissioned service was included in computing retainer pay or in determining eligibility for transfer to the Reserve.

"A retired enlisted man of the Navy receiving retired pay on the basis of his enlisted grade is not to be considered as receiving retired pay 'for or on account of services as a commissioned officer' within the meaning of the dual compensation provirions of section 212 of the act of June 30, 1932, solely because service as a commissioned officer or commissioned warrant officer is included in the computation of his length of service for longevity pay and retirement purposes as an enlisted man, irrespective of whether such commissioned service was before or after retirement (12 Compt. Gen. 37; 21 id. 72, distinguished).

"Since retired enlisted men are expressly exempt from the restrictions of the dual compensation and employment statutes (act of May 10, 1916, as amended; act of July 31, 1894, as amended; and section 212 of the act of June 30, 1932—later section being applicable only to retired pay 'for or on account of services as a commissioned officer'), retired enlisted men of the Navy who are in receipt of the retired pay of their enlisted grades may receive the compensation attached to civilian employment and continue to receive their retired pay.

"Since a retired warrant officer may not be regarded as receiving retired pay 'for or on account of services as a commissioned officer' within the meaning of the dual compensation provisions of section 212 of the act of June 30, 1932, such an officer may be

employed in a civilian position and accept the compensation attached thereto while in receipt of his retired pay, provided the retired pay and such compensation each is less than the $2,500, per annum maximum contained in the dual employment statute of July 31, 1894, as amended."

(Army officers—Army emergency relief, 26 Compt. Gen. 192, Sept. 16, 1946): "The Army emergency relief, a charitable and benevolent corporation organized for the benefit of personnel of the Army of the United States, which, while directed by War Department officials by virtue of their office and administered, for the most part, by Government personnel, conducts its lawful functions without interference or assistance by the Government, is not an agency of the Government, and, therefore, a retired Army officer may be employed by the Army emergency relief without regard to the dual compensation limitation of section 212 of the act of June 30, 1932, as amended, or the dual employment restriction of section 2 of the act of July 31, 1894, as amended."

(Navy enlisted personnel advanced on retired listed commissioned rank, 26 Compt. Gen. 271, Oct. 28, 1946):

"A retired Navy enlisted man who, as provided by section 10 of the act of July 24, 1941, as amended, is returned to inactive status with the commissioned rank held under a temporary promotion while on active duty after retirement does not hold the 'office' of a retired officer but, rather, continues to hold the 'office' of an enlisted man on the retired list and, therefore, remains within the exception of retired enlisted men from the prohibition in the act of July 31, 1894, as amended, against the appointment to, or the holding of, more than one office.

"Retired Navy enlisted men who, as provided by section 10 of the act of July 24, 1941, as amended, are returned to inactive status with retired pay computed on the pay of the temporary commissioned rank held while on active duty after retirement are to be regarded as in receipt of retired pay 'for or on account of' commissioned service within the meaning of section 212 of the act of June 30, 1932, as amended, so as to be subject to the restriction therein on the combined rate of civilian compensation and retired pay which may be received.

"Navy enlisted men placed on the retired list pursuant to section 8(a) of the act of July 24, 1941, or retired enlisted men advanced thereon pursuant to section 8(b) of said act, with retired pay computed on the pay of the temporary active-duty commissioned rank held at the time of incurrence of physical disability, are to be regarded as in receipt of retired pay 'for or on account of' commissioned service within the meaning of section 212 of the act of June 30, 1932, as amended, so as to be subject to the restriction therein on the combined rate of civilian compensation and retired pay which may be received.

"Enlisted men or retired enlisted men of the Navy who, pursuant to sections 8(a) or 8(b), or section 10, as amended, of the act of July 24, 1941, become entitled to retired pay computed on the pay of their temporary active-duty commissioned rank may not waive computation on such basis and elect to receive retired pay based on enlisted ratings, so as to render themselves exempt from the limitation of section 212 of the act of June 30, 1932, as amended, on the combined rate of civilian compensation and retired pay 'for or on account of' commissioned service which may be received. Statements to the contrary in prior decisions no longer will be followed.

"The restriction of section 212 of the act of June 30, 1932, as amended, against the receipt by retired military, etc., personnel of retired pay at a rate which, when combined with the 'annual rate of compensation' from a civilian position, equals or exceeds $3,000 per annum, has reference to basic civilian compensation, and, therefore, the salary differential payable in certain cases of civilian employment outside the continental United States, being a part of basic compensation, is for inclusion in applying such restriction.

"The monetary allowance for quarters, etc., prescribed for certain civilian employees on duty in foreign countries is not a part of basic compensation to be included in applying the restriction of section 212 of the act of June 30, 1932, as amended, against the receipt by retired military, etc., personnel of retired pay at a rate which, when combined with the 'annual rate of compensation' from a civilian position equals or exceeds $3,000 per annum.

"In the case of a retired Navy enlisted man, employed in a civilian position when recalled to active duty, who, after return to inactive status, becomes entitled under the act of July 24, 1941, as amended, to retired pay computed on the pay of his temporary active-duty commissioned rank, application of the restriction of section 212 of the act of June 30, 1932, as amended, as to concurrent receipt of civilian compensation and retired pay on account of commissioned service does not, constitute an abridgement of his reemployment rights under the Selective Training and Service Act of 1940, as amended—such restriction being operative in respect of retired pay only."

(Reserve officers, 28 Comp. Gen. 361, Dec. 17, 1948):

"The payment of retired pay under title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 to Reserve officers on inactive duty, who also occupy Federal civilian positions the compensation attached to which equals or exceeds $2,500 per annum, need not be regarded as in contravention of the dual employment restriction in the act of July 31, 1894, as amended.

"Commissioned Reserve officers retired under title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948, with retired pay computed on the basis of their highest grades, and who also hold civilian positions with the Federal Government, are to be regarded as receiving retired pay 'for or on account of services as a commissioned officer' within the meaning of section 212 of the Economy Act of June 30, 1932, as amended, so as to be prohibited from receiving combined retired pay and civilian compensation in excess of $3,000 per annum.

"A person in receipt of an annuity under the Civil Service Retirement Act of 1930, as amended, on account of Federal civilian service, and who is entitled to be paid retired pay under title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 for military Reserve service, concurrently may receive retired pay under the 1948 act and annuities under the 1930 act as amended."

(Nurses, Armed Forces, 29 Comp. Gen. 80, Aug. 17, 1949):

"Retired members of the Navy Nurse Corps who were placed on the retired list prior to April 16, 1947, the effective date of the Army-Navy Nurses Act of 1947, which granted commissioned officer status to members of the Navy Nurse Corps, do not receive retired pay for or on account of commissioned service within the purview of section 212 of the act of June 30, 1932, as amended, so as to be subject thereunder to the prohibition against the concurrent receipt of civilian compensation and retired pay at a combined rate in excess of $3,000 per annum.

"A member of the Navy Nurse Corps retired under the act of December 3, 1945, without having acquired a commissioned status, and who is receiving retired pay concurrently with civilian compensation in a combined amount in excess of $2,000 per annum—being neither an officer nor an enlisted man—is to be regarded as receiving a 'salary' in her retired status within the meaning of the dual compensation statute of May 10, 1916, as amended, and, therefore such person should be required to refund the salary which she has not elected to retain."

(Fleet admiral, Navy—member of Presidential Commission, 30 Compt. Gen. 371, Mar. 7, 1951): "The receipt of compensation as a member of the President's Commission on Internal Security and Individual Rights concurrently with active duty pay as Fleet Admiral of the Navy would be in contravention of the act of May 10, 1916, as amended, prohibiting payments from appropriated funds to any person receiving more than one salary when the combined amount of the salaries exceeds the sum of $2,000 per annum."

(Commissioned officers—Veterans' Administration, 31 Compt. Gen. 27, Aug. 8, 1951): "The 5-year period in section 2 of the act of August 10, 1946, during which the Administrator of Veterans' Affairs is authorized to employ retired commissioned or warrant officers without loss of their retirement rights is a limitation on the authority to appoint such officers rather than a limitation on the length of their employment, so that retired officers employed pursuant to said act may be continued on the rolls of the Veterans' Administration indefinitely so long as their services are needed, without loss of retirement rights."

(Navy enlisted man advanced on retired list, 31 Compt. Gen. 619, May 29, 1952): "A retired enlisted man of the Navy who is advanced on the retired list, retroactively to the date of his retirement, to commissioned rank pursuant to the provisions of the act of July 24, 1941, as amended, would not be subject to the restrictions of section 212 of the act of June 30, 1932, as amended, prohibiting receipt of civilian compensation and retired pay in excess of a combined rate of $3,000 prior to the date of the order retroactively advancing him on the retired list."

(Compensation—Double—Temporary mail clerk, 35 Compt. Gen. 75, Aug. 5, 1955): "A retired commissioned warrant officer who is employed as a temporary substitute mail clerk in the absence of the regular mail clerk and classified substitutes, at an hourly rate which would aggregate in excess of $3,000 a year had he been employed full time, is not the incumbent of the position except on the days when he actually worked, and on those days he is not entitled to receive retired pay which when combined with the civilian compensation for that day would be in excess of the $3,000 per annum dual compensation limitation in section 212 of the Economy Act of 1932."

(Compensation—Double—Consultants employed under Mutual Security Act of 1954, 35 Compt. Gen. 308, Nov. 29, 1955): "A retired Army officer who was appointed as a consultant at $40 a day with a regular 40-hour, 5-day weekly tour of duty under section 104(e) of the Economic Cooperation Act of 1948 as continued by section 7(c) of the Mutual Security Act of 1952 may be regarded as holding an appointment as a temporary consultant under section 530(a) of the Mutual Security Act of 1954 within the dual employment and compensation exemptions in section 532(a) and consequently such civilian employment does not preclude the concurrent receipt of retired pay and civilian compensation from August 26, 1954, the effective date of the act; however, the 1954 act does not have any retroactive effect so as to authorize concurrent retired and civilian service pay prior thereto."

(Reserve officers, 35 Compt. Gen. 497, Mar. 2, 1956): "Federal civilian officers and employees who have been or may be granted retired pay under title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 and who, prior to January 1, 1953, were members of the Officers' Reserve Corps or National Guard or who, after that date, were members of any of the Reserve components, during the period covered by the payment, may receive retroactive and

prospective military retired pay in addition to civilian compensation in accordance with the precedent in *Tanner* v. *United States*, 129 C. Cls. 792, which excluded such reservists from the dual compensation statutes."

(Compensation—Double—Termination of Reserve Corps status, 35 Compt. Gen. 504, Mar. 7, 1956): "The transfer of a member of the Officers' Reserve Corps to the Honorary Reserve in 1948, and to the Army of the United States Retired List on September 1, 1951, pursuant to title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948, did not affect or extend the member's Reserve Corps appointment which was made in 1946 and which was terminated by operation of law not later than April 1, 1953, and therefore, retired pay in addition to civilian compensation may be paid only for the period from September 1, 1951, to April 1, 1953."

(ROTC—Leave—Double compensation, 35 Compt. Gen. 531, Mar. 29, 1956): "A Federal employee who is a member of the Reserve Officers' Training Corps is not a member of a reserve component of the armed services to be entitled to military leave to attend a summer training camp, nor is he within the military service exception in the dual compensation statutes, 5 U.S.C. 59, and, therefore, the granting of annual leave to an employee while he is receiving ROTC military pay and allowances, which are paid from appropriated funds, would contravene the dual compensation statutes."

(Fleet Reserve—Dual employment prohibition, 35 Compt. Gen. 657, May 22, 1956): "Members of the Fleet Reserve and the Fleet Marine Corps Reserve who had permanent enlisted status but who have been placed on the retired list on the basis of service in a temporary commissioned grade pursuant to section 2(a) of the act of August 9, 1955, and members placed on the Navy retired list in officer status pursuant to section 6 of the act of February 21, 1946, are no longer in an enlisted status within the exemption in the dual-employment statute of 1894 (5 United States Code 61) and are, therefore, subject to its prohibitory provisions."

(Compensation—Double—Agricultural cooperative employees—36 Compt. Gen. 84, Aug. 6, 1956):

"A retired Naval Reserve officer who is appointed by the Department of Agriculture to a civilian (cooperative) position in the Extension Service at a State university, where he performs Federal functions and is supervised by a Federal official, holds a civilian office or position under the U.S. Government within the meaning of the dual compensation limitations in section 212 of the Economy Act of June 30, 1932, 5 United States Code 59a, even through his civilian salary is paid from State or non-Federal funds.

"The decision that Department of Agriculture cooperative employees (paid by States) hold positions under the U.S. Government within the meaning of the dual compensation limitations of section 212 of the Economy Act of June 30, 1932, 5 United States Code 59a, is tantamount to a changed construction of the law and, therefore, will not be given retroactive application."

(Retired Public Health Service officers—Eligibility for civil service positions, 36 Compt. Gen. 242, Sept. 27, 1956): "Members of the Commissioned Corps of the Public Health Service who are receiving retired pay which amounts to $2,500 or more a year are prohibited by the act of July 31, 1894, 5 U.S.C. 62, from holding any office or position under the Federal Government to which compensation attaches, and the exemption relating to members of the Army, Navy, Air Force, Marine Corps, or Coast Guard who are retired for physical disability is not applicable to officers in the Public Health Service."

(Enlisted members of Fleet Reserve retroactively retired in commissioned grades—Dual compensation refunds, 36 Compt. Gen. 288, Oct. 9, 1956): "Retired enlisted members of the Fleet Reserve and the Fleet Marine Corps Reserve who were held to have been retired in temporary commissioned grades retroactively effective to September 1, 1955, pursuant to section 2(a) of the act of August 9, 1955, 34 U.S.C. 410(a), and, therefore, if holding a position in the Federal Government, subject to the dual office prohibition in the act of July 31, 1894, 5 U.S.C. 62, are not required to make any dual compensation refunds under 5 U.S.C. 59(a), for periods prior to May 23, 1956, the date of decision of the Comptroller General, 35 Comp. Gen. 657, or the date of action effecting the appointment to commissioned grade on the retired list, whichever is later."

(Retired officers holding nonappropriated fund activity positions—Dual office and dual compensation prohibitions, 36 Compt. Gen. 309, Oct. 11, 1956): "Although retired officers of the Armed Forces who are employed by nonappropriated fund activities, such as post exchanges, officers' mess, and employee's cooperative associations, do not hold any 'office' within the meaning of the dual office holding prohibition in the act of July 31, 1894, 5 U.S.C. 62, they do hold an office or position under the Federal Government as the term is used in the dual compensation prohibition of the Economy Act of 1932, 5 U.S.C. 59(a) which precludes the receipt of retired pay and civilian compensation in excess of the maximum fixed therein."

(Contracting with the Government—Enlisted member receiving retired pay as an officer, 36 Compt. Gen. 315, Oct. 12, 1956): "A member of the Navy who is retired under laws relating to enlisted men but who receives retired pay as an officer by reason of a temporary officer appointment under title III of the Officer Personnel Act of 1947, is not an officer within the purview of 34 U.S. Code 883 or 5 U.S. Code 59c, which precludes a retired officer from receiving retired pay when he accepts employment in private industry to sell or negotiate for the sale of his employer's products to one or more of the military services."

(Compensation—Double—Canal Zone government—Retired enlisted member advanced to commissioned rank, 36 Compt. Gen. 503, Jan. 11, 1957):

"A retired enlisted man of the Regular Air Force who has been advanced on the retired list to commissioned rank, and who holds a civilian position with the Canal Zone government, is a person in the military service under the dual compensation provisions of section 82(a) of title 2 of the Canal Zone Code and comes within the purview of the salary deduction exemption in section 82(a)(1) of the Canal Zone Code applicable to enlisted members.

"A Canal Zone government employee who is also a commissioned officer not on active duty in the Air Force Reserve is not considered to be in the military service within the purview of the dual compensation provisions of the Canal Zone Code.

"A retired enlisted man of the Regular Air Force who has been advanced on the retired list to commissioned rank, and who holds a civilian position with the Canal Zone government comes within the purview of the dual compensation exemption in the Canal Zone Code and is not subject to the dual compensation restrictions in the Economy Act of 1932, 5 U.S. Code 59a, and, therefore, the employee may receive retired pay and civilian compensation."

(Dual compensation—Concurrent military retired and civilian service pay, 36 Compt. Gen. 689, Apr. 4, 1957): "A retired military officer, who is employed as a consultant on a 'when actually employed' basis under a civilian employment contract, which limits the hours or days of employment so that the total amount of retired pay plus civilian compensation which possibly could be paid during the year does not exceed the prescribed statutory limitation of $10,000 a year, 5 U.S.C. 59a(b), is not subject to the dual compensation limitation, even though the civilian compensation computed on a full-time yearly basis would exceed the maximum limitation."

(Retired—Employed as consultants, 36 Compt. Gen. 723, Apr. 18, 1957): "A retired Naval officer who is employed as a temporary consultant on a full-time 5-day-week basis is not considered in a nonpay status on Saturdays and Sundays so as to be entitled to receive retired pay; however, in the absence of a provision in the civilian employment contract authorizing compensation for holidays on which no work is performed, the officer is considered in a nonpay status on holiday nonworkdays, falling within the workweek, Monday through Friday, and is entitled to receive retired pay."

(Retired military personnel holding civilian positions—Dual compensation—Waiver of retired pay for veterans' benefits, 36 Compt. Gen. 799, June 6, 1957): "A retired commissioned officer who executes a waiver of retired pay pursuant to 38 U.S.C. 504 in order to receive veterans disability compensation, which is not considered retired pay, has in effect reduced the legally authorized retired pay by the amount of the veterans' compensation, and, therefore, an amount formerly withheld from retired pay to prevent combined retired pay and compensation from a civilian position from exceeding the $10,000 double compensation limitation, 5 U.S.C. 59a, may be paid to the officer from the effective date of the waiver so long as the combined retired pay and civilian compensation do not exceed $10,000."

(Retired Navy officer employed as wharfbuilder—Dual employment, 36 Compt. Gen. 803, June 7, 1957):

"A Navy officer who is retired for length of service under 34 U.S.C. 410b and who is employed by the Navy Department as a wharfbuilder with compensation fixed on an hourly basis holds two offices within the meaning of the prohibition in 5 U.S.C. 62, and, inasmuch as the retired pay and civilian compensation exceed the $2,500 a year limitation, the salary received from the civilian employment must be refunded.

"An individual with permanent enlisted status in the Navy who is retired as an officer under 34 U.S.C. 410b and who by reason of civilian employment is determined to have held two offices contrary to the prohibition in 5 U.S.C. 62 is required to refund the net amount of the civilian compensation received after May 22, 1956, the date of decision of the Comptroller General (35 Comp. Gen. 657) in which it was held that enlisted men retired in officer status were subject to the dual officer prohibition."

(Retired reservists—Compensation—Double, 36 Compt. Gen. 808, June 11, 1957): "Federal civilian officers and employees who have been or may be granted retired pay and who, prior to January 1, 1953, were members of the Officers' Reserve Corps or National Guard or who, after that date, were members of any of the Reserve components, during the period covered by the payment, may receive retroactive and prospective military retired pay in addition to civilian compensation in accordance with the precedent in *Tanner* v. *United States*, 129 C. Cls. 792, which excluded such reservists from the dual compensation statutes. 35 Compt. Gen. 497, modified."

(Dual employment—Retired Regular Army officers appointed as Reserve officer, 37 Compt. Gen. 39, July 22, 1957): "A retired Regular Army officer who is appointed as a Reserve officer in an assigned status is regarded as holding two offices within the meaning of the dual office prohibition in section 2 of the act of July 31, 1894, 5 U.S.C. 62, and the exemption in 5 U.S.C. 30r, refers only to Federal civilian employ-

ment of a reservist and is not applicable to a dual military status."

(Arkansas National Guard—Dual employment—Leave status, 37 Compt. Gen. 255, Oct. 17, 1957):

"The military service obligation of Federal employees who are ordered into the active military service of the United States pursuant to Executive Order No. 10730, which federalized the Arkansas National Guard, is not only incompatible with the civilian employment status but is paramount to the civilian service so that the employees do not have a right to elect to receive compensation of the civilian position during the period of military duty.

"Although Federal civilian employees who are ordered into the active military service of the United States pursuant to Executive Order No. 10730, which federalized the Arkansas National Guard, may be carried in a military leave status for 15 calendar days, provided the military leave has not been used previously during the current calendar year, and in an annual leave status to the extent of their accrued annual leave during the period of their active military service, they may not be carried in a leave-without-pay status but must be placed on military furlough or separated, at the option of the agency, in accordance with instructions in chapters L-1-7 and R-6-4 of the Federal Personnel Manual."

(Double compensation—Reserve membership—Coast Guard, 37 Compt. Gen. 297, Nov. 4, 1957): "A member of the Coast Guard Reserve who is placed on the retired list and who, subsequent to the expiration of a 3-year appointment, accepts a civilian position does not continue to be a member of the Coast Guard Reserve after expiration of the period of military service to be regarded as a de jure member of a reserve component exempt from the dual compensation restrictions in 5 U.S.C. 59a."

(Double compensation—Commissioned warrant officers—Tato decision, 37 Compt. Gen. 591, Mar. 7, 1958): "In view of the holding in *Tato* v. *United States*, 136 C. Cls. 651, and *Atkins, et al.* v. *United States*, C. Cls. No. 473-56, decided January 15, 1958, that a commissioned warrant officer is not a 'commissioned officer' within the meaning of that term as used in the dual compensation limitation in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, proper payments of retired pay which may be made administratively on the basis of the Tato and Atkins decisions to retired commissioned warrant officers holding civilian positions will not be questioned by the accounting officers and claims submitted to the General Accounting Office will be settled on the same basis."

(Compensation—Double—Foreign post, etc.—allowances, 37 Compt. Gen. 739, May 8, 1958): "The post salary differential which is payable to employees outside of the continental United States under 5 U.S.C. 118h and Executive Order No. 10000 is not regarded as a part of the basic compensation of the position within the meaning of the dual compensation limitation in 5 U.S.C. 59a, and, therefore, a retired officer of the uniformed services whose retired pay and civilian compensation exceeds the $10,000 dual compensation limitation only when the post differential is included may be paid retired pay and receive the civilian compensation and post differential without violating the dual compensation prohibition."

(Placement on disability retired list—dual compensation, 37 Compt. Gen. 811, June 3, 1958):

"The placing of an Air Force Reserve officer on the temporary disability retired list under orders which advised the officer that his appointment was terminated does not automatically terminate his appointment and the statement in the orders which was not in accordance with any provision of law is not regarded as an administrative act terminating the appointment; therefore, the member who continued to be a de jure member of the Reserves while on the temporary disability retired list and who was employed in a civilian position is exempt from the dual compensation restrictions in 5 U.S.C. 59(a) and may receive retired pay which had been withheld due to the termination of Reserve status.

"A settlement which allowed a member of a Reserve component retroactive retired pay pursuant to a correction of records action placing the member on a temporary disability retired list, but which denied retired pay for a period when the member was employed in a civilian position because settlement was made prior to the decision of the Comptroller General (36 Comp. Gen. 808) extending the rule in the *Tanner* case (129 C. Cls. 792) to bring de jure members of Reserve components who were authorized to receive retired pay under 10 U.S.C. 1036 within the dual compensation exemption in 5 U.S.C. 30r(c), is not a final release under 10 U.S.C. 1552(c) to preclude receipt of retired pay upon a subsequent change in interpretation of the law."

(Military personnel—Record correction, 37 Comp. Gen. 852, June 26, 1958): "An officer in the Army of the United States whose military record was corrected to show that his release from active duty was due to physical disability and that he was entitled to disability retired pay from a date fixed subsequent to the date of release from active duty should not be barred by the release provisions of 5 U.S.C. 191a(c) from receiving disability retired pay from the date of release from active duty to the earliest date for which he received retired pay upon a subsequent interpretation that the date for commencement of retired pay could not be fixed at a date other than the date of release from active duty."

(Detail to a civilian agency—Double compensation, 38 Comp. Gen. 222, Sept. 18, 1958): "An officer of the uniformed services who during a period of temporary additional duty with the Office of International Education, Department of State, received pay and allowances from the military service and compensation from the State Department is to be regarded as a military officer on detail to another agency and is entitled to receive only the pay and allowances from the military service as provided in section 302 of the U.S. Information and Educational Exchange Act of 1948, 22 U.S.C. 1452, and the officer may not retain the additional compensation received from the State Department under either the assignment provisions of the act or the grant provisions of the act or the grant provisions in section 801 of the act, 22 U.S.C. 1471."

(Courts—Judgments—Additional matter not litigated—res judicata, 38 Compt. Gen. 419, Dec. 8, 1958):

"In a suit against the Government for payment for a particular period of time, the plaintiff should seek judgment for all of the amount which might be payable for the period under any and all legal theories and laws bearing on his entitlement and after award and payment of a judgment, the failure of the plaintiff to seek judgment in the original petition under all of the laws applicable to the case precludes favorable consideration of a claim for an additional amount on the basis of another law.

"Payment of a judgment based on a stipulation agreement and providing that acceptance constitutes full settlement of the claim set forth in the petition under which a retired Navy officer sought additional retired pay, based on *Sanders* v. *United States*, 120 C. Cls. 501, is a full and final discharge to the United States of claims and demands arising out of the matters litigated pursuant to 28 U.S.C. 2517 and the failure of the officer to question in petition the applicability of sec. 212 of the Economy Act of 1932, 5 U.S.C. 59a, as in *Tato* v. *United States*, 136 C. Cls. 651, makes a claim for additional retired pay under the Tato decision of such doubtful validity as to preclude favorable action by the General Accounting Office."

(Double compensation—Former Reserve officers—*Warthen* case, 38 Compt. Gen. 741, May 1, 1959):

"The holding in the case of *Henry L. Bowman, et al.* v. *United States*, C. Cls. No. 108-58 (referred to as the Warthen case), which further extended the rule in the Tanner case, 129 C. Cls. 792, to exempt former Reserve officers of Reserve components of the uniformed services as distinguished from de jure Reserve officers from the dual compensation restrictions in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, will be followed in the settlement of similar claims for retired pay under title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 by former Reserve members for periods while they were concurrently employed by the Federal Government; however, pending further litigation of the issue in the *Leonard* case, 136 C. Cls. 686, which deals with a discharged former officer of the Army of the United States entitled to receive disability retired pay under the act of April 3, 1939, 10 U.S.C. 456 (1946 Edition), such claims will not be allowed."

(Military personnel—Retired—Dual compensation limitation—Sec. 212, Economy Act of 1932, 38 Compt. Gen. 774, May 18, 1959):

"In determining the applicability of the dual compensation limitation in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, it is the combined annual rate of civilian compensation and retired pay which controls, irrespective of the number of days of work in the civilian position, and not the total amount of civilian compensation and retired pay received during the year or fraction of a year; therefore, a retired officer who is employed on a 'when actually employed basis' under a contract which limits the hours or days of work but permits the receipt of a total amount of retired pay, plus civilian compensation which exceeds the $3,000 limitation, in effect through August 3, 1955, or the $10,000 limitation, which became effective on August 4, 1955, is required to have his civilian compensation and retired pay reduced under the act.

"An officer who was retired for disability under 34 U.S.C. 417, who was employed on a 'when actually employed basis' under contracts which limited the number of days of employment but which permitted him to receive an amount which, when combined with the retired pay, exceeds the annual rate of $3,000 for 1-year periods during 1952-55 prescribed in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, was not entitled to receive retired pay for the days for which he received civilian compensation; however, for the period after June 30, 1955, when the number of days employment was limited to 90 a year, the civilian compensation when combined with retired pay did not exceed the $10,000 dual compensation limitation effective August 4, 1955, so that neither the civilian compensation nor the retired pay was subject to reduction.

"Under the dual compensation limitation in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, when the retired pay is less than $10,000 a year but the salary rate of the civilian position, plus retired pay, exceeds the $10,000, the full salary of the civilian position is paid, and the deduction to bring the rate of compensation and retired pay within the limitation is made from the retired pay.

"A retired officer whose combined rate of retired pay and civilian compensation during the period of January 5 to May 31, 1958—the period for which civilian employees received a retroactive salary increase under section 17(a) of the Federal Employees Salary Increase Act of 1958, 5 U.S.C. 1113 note—was less than the $10,000 limitation in section

212 of the Economy Act of 1932, 5 U.S.C. 59a, is entitled to have the benefit of the retroactive increase, if the allowance of such increase is to the employee's advantage, taking into consideration any tax adjustment required, with any necessary reduction in retired pay so as not to exceed the $10,000 limitation."

(Concurrent military retired pay and civilian compensation—Reservists, 38 Compt. Gen. 839, June 16, 1959): "A retired Army officer who is in receipt of retired pay prescribed in 10 U.S.C. 1004 for length of service at time of retirement and based on the highest temporary commissioned grade satisfactorily held and who has had his military records corrected to show that he continued *to hold* an appointment in the Army Reserve after April 1, 1953, when his officers' Reserve Corps commission terminated, may not be regarded as entitled to or in receipt of retired pay 'under the laws relating to the Reserve components of the Armed Forces' within the meaning of that phrase in the dual compensation restriction exemption in the act of July 1, 1947 (now 5 U.S.C. 30r(c)), and, therefore, retired pay withheld while the member was employed in the officers' Open Mess may not be refunded."

(Retired officers—Employment with NATO—Double compensation limitation applicability, 39 Compt. Gen. 126, Aug. 25, 1959): "A regular commissioned officer of the uniformed services who, after retirement for physical disability not incurred in combat or caused by an instrumentality of war, is employed by the Department of State for detail to a position with the North Atlantic Treaty Organization and who receives a salary from the Department of State, which salary subsequently results in a credit to the United States against its share of the expenses, must have the NATO position regarded as an appointive one 'under the U.S. Government' as used in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, which precludes concurrent receipt of retired and civilian pay in excess of $10,000 a year, in view of the conditions of the service and section 532(b) of the Mutual Security Act of 1954, which permits retired military officers to be employed in international organizations but subjects their salary to the double compensation limitation in 5 U.S.C. 59a."

(Dual compensation—Concurrent military retired and civilian service pay—Reserve membership, 39 Compt. Gen. 280, Oct. 9, 1959): "A member of the uniformed services who while serving as a warrant officer is retired for physical disability and receives retired pay based on satisfactory service in grade of lieutenant in the Army of the United States without component, although he held the grade of lieutenant, U.S. Army Reserve, at the time of placement on the temporary disability retired list, is not regarded as receiving retired pay 'under the laws relating to the Reserve components of the Armed Forces' within the meaning of the dual compensation exemption in 5 U.S.C. 30r(c), the pay and allowances in the exemption must be those which are payable to a member of a Reserve component in his capacity as a reservist and be related to the active duty performed."

(Military personnel—Retired—Contracting with the Government—Dual compensation, 39 Compt. Gen. 751, May 5, 1960):

"The conflict-of-interest prohibition in 10 U.S.C. 6112(b) against retired officers of the Regular Navy and Regular Marine Corps receiving payment from the United States while engaged in selling supplies to the Department of the Navy refers to activities in connection with the procurement of property by the Government as distinguished from sales by the Government; therefore, in the absence of any prohibition against retired officers engaging in activities incident to sales by the Government, a retired Marine Corps officer who is an active partner in enterprises engaged in obtaining concessionaire privileges from the Government does not come within the conflict-of-interest prohibition in 10 U.S.C. 6112(b), and payment of retired pay is not prohibited.

"A retired Regular Marine Corps officer who is an active partner in enterprises which hold concession contracts with the Government is not, as a contract concessionaire, regarded as an officer of the United States or as holding a civilian position under the Government so as to be precluded by the 1894 dual office act, 5 U.S.C. 62, or the 1932 dual compensation law, 5 U.S.C. 59a, from receiving retired pay."

(Military personnel—Retired pay—Judgment—res judicata, 39 Compt. Gen. 797, May 31, 1960): "A judgment under which a retired officer of the uniformed services was awarded retired pay under title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 on the basis that such retired pay was exempt from the dual compensation restrictions in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, but which judgment was based on the erroneous assumption and admission that the officer had the required service to qualify for title III retired pay, when in fact he did not, does not afford any basis to sanction current payments of retired pay or to approve payments for any period not covered by the judgment in the absence of a judicial determination of the dispute as to the basic fact or as to the application of the rule of res judicata to such a judgment."

(Dual compensation—Warrant officers—Receipt of retired pay based on warrant officer versus Higher commissioned grade, 39 Compt. Gen. 810, June 3, 1960):

"A retired permanent Regular commissioned warrant officer of the Navy who has his name placed upon the temporary disability retired list in a commissioned officer grade but who, because of entitlement to retired pay computed on the formula most favorable to him, continues to receive temporary disability retired pay based upon his warrant officer grade under formula 4 of 10 U.S.C. 1401 is not receiving retired pay 'for or on account of services as a commissioned officer' as used in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, and, therefore, the dual compensation restriction is not for application.

"A permanent Regular commissioned warrant officer of the Navy who has his name placed upon the temporary disability retired list in a commissioned officer grade because of a higher temporary commission once held and who receives retired pay of that grade does not come within the rule in *Tato* v. *United States*, 136 Ct. Cl. 651, in which it was held that a commissioned warrant officer grade because of a higher temporary commission once held and whose station limitation in section 212 of the Economy Act of 1932, 5 U.S.C. 59a; therefore, the member is subject to the $10,000 per annum dual compensation restriction.

"A retirement of a permanent Regular commissioned warrant officer for a disability of a permanent nature, as distinguished from placement of the member's name on the temporary disability retired list, would not change the application of the dual compensation restriction in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, so that if the retired warrant officer is retired for a permanent disability in a commissioned officer grade because of a higher commission once held but continues to receive retired pay based on the warrant officer grade he is not subject to the dual compensation restriction.

"Warrant officers who are voluntarily retired under 10 U.S.C. 1293, advanced on the retired list to a higher commissioned officer grade, but who continue to receive retired pay based upon the commissioned warrant officer grade, are not receiving retired pay 'for or on account of services as a commissioned officer' as used in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, and, therefore, are not subject to the dual compensation restriction; however, if they receive retired pay based upon the higher commissioned grade, they are subject to the $10,000 per annum dual compensation restriction.

"Since Regular warrant officers of the Army and Air Force are not commissioned officers, the dual compensation rules established for retired warrant officers of the Navy would be for application to the same extent."

(Dual compensation—Retired pay under the act of Apr. 3, 1939—*Palmer* case, 40 Compt. Gen. 136, Aug. 26, 1960):

"The holding in *Palmer* v. *United States*, Ct. Cl. No. 356–358, that a former officer of the Army of the United States, who was retired for physical disability under the act of April 3, 1939, had no status in the Reserve Components of the Armed Forces and that he did not receive his retired pay from laws relating to Reserve Components within the meaning of 10 U.S.C. 371b to exempt him from the dual compensation restrictions in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, is tantamount to a conclusion that the 1939 act is not a law relating to Reserve Components under the rule of *Tanner* v. *United States*, 129 Ct. Cl. 792, and creates doubt as to the propriety of paying retired pay under the 1939 act to reservists and Army of the United States personnel and similar personnel of the Air Force, where such persons are otherwise within the dual compensation restrictions; accordingly, until the position of the court is clarified, further payments of retired pay under the 1939 act during periods of Federal employment should not be made; however, payments made in good faith prior to November 1, 1960, will not be questioned. 35 Compt. Gen. 497; 36 id. 808; 38 id. 741; and other decisions in conflict with this decision are modified.

"A member of the uniformed services who, while serving as a Reserve officer, is retired for physical disability or otherwise and becomes entitled to retired pay by reason of service in a Reserve component, under statutory provisions other than the act of April 3, 1939, as amended, 10 U.S.C. 3687 and 8687, is not subject to the dual compensation restrictions of section 212 of the Economy Act of 1932, 5 U.S.C. 59a, even though his membership in the Officers' Reserve Corps or the National Guard has terminated."

(Binational grantee service—Double compensation and dual office restrictions, 40 Compt. Gen. 158, Sept. 8, 1960): "A retired Army officer receiving retired pay who is employed overseas at a binational center—a private autonomous organization established pursuant to section 203 of the United States Information and Educational Exchange Act of 1948, 22 U.S.C. 1448—under a grant agreement which provides for periodic payments to the grantee but does not contemplate the type of duty usually arising in an employer-employee relationship or reflect the concept to bring the grantees within the statutes applicable to Federal employees does not, by virtue of the grant agreement, hold an office or position prohibited or restricted by the dual compensation and dual office acts, 5 U.S.C. 59a, id. 62, and, since the grant is for the discharge of contractual duties not belonging to an 'officer or clerk' in 5 U.S.C. 69 and is not for 'extra services' for the United States in 5 U.S.C. 70, those prohibitions are not for application so that the officer may receive retired pay concurrently with the grant."

(Dual compensation—Maximum limitation—Annual rate versus amount, 40 Compt. Gen. 193, Sept. 29, 1960): "The rule with respect to the application of the dual compensation restriction in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, that the annual rate of compensation and retired pay in controlling rather than the total amount

of combined pay will continue to be followed pending a clarification of the holding in *Schuyler* v. *United States*, Ct. Cl. No. 548–58, January 20, 1960, in which the court authorized a refund of retired pay to a retired Navy officer whose actual combined civilian compensation as a consultant and retired pay based on a particular calendar year was less than $10,000—the limitation in the act—but did not indicate the basis for the selection of a calendar year instead of an employment year and what action would be taken in cases where the combined amount exceeded the limitation."

(Dual offices—Retired military member—Appointment as acting postmaster, 40 Comp. Gen. 614, May 3, 1961): "A Marine Corps officer retired for length of service under 10 U.S.C. 6323, who is appointed by the Postmaster General as an acting postmaster to a vacant postmaster position in a first-class post office for a period not to exceed 6 months, has a temporary position which is one created for a limited period for the accomplishment of a particular purpose and which will cease upon the accomplishment of the purpose—the appointment of a postmaster by the President by and with the advice and consent of the Senate—and the holding of such temporary position, as distinguished from a temporary appointment, is not the holding of an office under the act of July 31, 1894, 5 U.S.C. 62, which precludes any officer who receives salary or annual compensation which amounts to $2,500 from being appointed to another office to which compensation is attached."

(Dual compensation—Retired pay under the act of April 3, 1939—*Watman* case, 40 Comp. Gen. 625, May 18, 1961):

"In the determination of the application of the dual compensation restriction exemption in 5 U.S.C. 30r(c) to members of the uniformed services who were appointed as officers in the Army of the United States without component under the act of September 22, 1941, entitling them to the same rights and benefits as members of the Officers' Reserve Corps, and who were retired for physical disability under the act of April 3, 1939—a law relating to the Officers' Reserve Corps so as to bring them within the dual compensation restriction exemption—their status as members of the Army of the United States at the time of retirement determines their right to come within the exemption in view of the holding in *Watman* v. *United States*, Ct. Cl. No. 189–59, decided March 1, 1961, which overruled *Leonard* v. *United States*, 136 Ct. Cl. 686, and *Palmer* v. *United States*, 139 Ct. Cl. 376, so that continuing membership in a Reserve component is no longer necessary for entitlement to the dual compensation exemption, and retired pay which was discontinued or reduced November 1, 1960, under 40 Comp. Gen. 136 may be adjusted administratively on authority of the *Watman* case (40 Comp. Gen. 136; B–143960, Oct. 17, 1960; B–144183, Oct. 20, 1960; B–144258, Nov. 25, 1960; B–126399, Dec. 20, 1960, modified).

"While members of the uniformed services appointed as officers in the Army of the United States without component, under the act of September 22, 1941, 55 Stat. 129, were granted 'the same rights, privileges, and benefits' as members of the Officers' Reserve Corps, members who are appointed in the Army of the United States without component under section 515(h) of the Officer Personnel Act of 1947 are entitled to those benefits which accrue while serving on active duty so that members appointed under the latter act, as well as under section 515g of the 1947 act and 37 U.S.C. 232(d), would not come within the dual compensation restriction exemption in 5 U.S.C. 30r(c)."

(Warrant officer in Army holding permanent rank in reserve component, 40 Compt. Gen. 660, June 7, 1961): "A warrant officer who, when retired as a nonregular member of the Army, held the permanent rank of chief warrant officer in the Army Reserve, although he had never served on active duty as a reservist at any time but had served under a temporary chief warrant officer appointment authorized pursuant to 10 U.S.C. 3448(c)(2) which accords such temporary officers the same benefits as members of the Army on active duty, is regarded as receiving the retired pay rights under 10 U.S.C. 3448 for Regular Army officers and is not entitled to the benefits for Reserve officers in 5 U.S.C. 30r(c), so that the holding in *Tawes* v. *United States*, Ct. Cl. No. 313–58, permitting members of Reserve components to receive retired pay concurrently with compensation under the Federal Employees' Compensation Act, is not for application and the member may not be paid retired pay withheld while he received compensation for an injury under the Federal Employees Compensation Act."

(Courts—Judgments—Res Judicata-Watman case overruling *Leonard* case, 41 Compt. Gen. 3, July 3, 1961):

"An unvacated or unreversed judgment rendered against a plaintiff on the merits of a controversy is conclusive as to all matters which were decided and which might have been decided, and even though, in a subsequent case involving another plaintiff but similar issues, a judgment is rendered in favor of the plaintiff the first judgment is res judicata so that a claim by the plaintiff in the first case, on the basis of the subsequent holding, must be denied.

"Notwithstanding that the decision in *Leonard* v. *United States*, 136 Ct. Cl. 686, which held that a retired member of the uniformed services was not entitled to an exemption from the dual compensation provisions of section 212 of the Economy Act, 5 U.S.C. 59a, by reason of former membership in the Army of the United States, was overruled as precedent in *Watman* v. *United States*, Ct. Cl. No. 189–59, the judgment in the Leonard case which was not vacated or reversed is conclusive as to all matters which were raised or which could have been raised and, since the statutes on which the plaintiff in the Leonard case bases his retired pay claim were in existence when the petition was filed which resulted in the original decision, the Watman case does not constitute any authority for allowance of the claim for disability retired pay withheld during civilian employment because of the dual compensation restrictions."

(Research fellowship service—Double compensation restrictions, 41 Compt. Gen. 6, July 5, 1961): "A research fellowship with the National Cancer Institute, Public Health Service, the purpose of which is to provide individual support for research training in the basic and clinical sciences in the health science fields with the object of increasing the number of scientists qualified to conduct independent research, does not involve a status which would come under the statutes that control the salaries and pay benefits of Federal employees generally so that a retired Army officer in receipt of disability retirement pay who is awarded such a fellowship does not, by reason of the fellowship, hold an 'office or position' under the United States within the meaning of the dual compensation restrictions of section 212 of the Economy Act of 1932, 5 U.S.C. 59a, and, therefore, payment of full retired pay may be made."

(Compensation—Double—Holding two offices—Retired military officer versus enlisted status, 41 Compt. Gen. 533, Feb. 8, 1962):

"The correction of the military records of a Regular Army warrant officer retired for length of service to show that he was retired as an enlisted member and not as a warrant officer so that his civilian employment at the time he was receiving retired pay is no longer in contravention of the dual office act of July 31, 1894, as amended, 5 U.S.C. 62, which exempts retired enlisted personnel, makes the removal of a debt charge established against the member for the total amount of compensation received under the civilian appointment proper.

"A lump-sum annual leave payment which is due a former civilian employee whose military records were corrected to show retirement in a Regular Army enlisted rather than an officer status so that his civilian employment was no longer contrary to the dual office prohibition in the act of July 31, 1894, 5 U.S.C. 62, as amended, relates to the leave accrued in connection with the civilian employment and not to the Army service and, therefore, payment for the lump-sum leave should be made from funds normally used for such payments upon termination of civilian employment, rather from funds available for amounts due as a result of correction of records under 10 U.S.C. 1552(c).

"Although the correction of the military records of a Regular Army warrant officer retired for length of service to show that the member was retired in an enlisted rather than officer status removed the member's civilian employment from the operation of the dual office prohibition in the act of July 31, 1894, 5 U.S.C. 62, as amended, the member's retired status—by reason of receipt of retired pay 'for or on account of services as a commissioned officer,' and retirement and receipt of retired pay under the laws relating to enlisted men—brings into question the application of the double compensation restriction in section 212 of the Economy Act of 1932, 5 U.S.C. 59a, and since a case involving a similar retired status is now pending in the Court of Claims, no determination as to the applicability of section 212 will be made."

3. Legislation proposing reforms (action thereon as indicated)

(85th Cong.)

S. 2945. Mr. Wiley (by request); January 9, 1958 (Armed Services): Exempts a retired officer of the armed services, Coast and Geodetic Survey, and Public Health Services, who serves as the manager-custodian of the Japan Locker Fund from the dual-compensation restrictions of present law for 5 years of such service.

H.R. 467. Mr. Smith of Mississippi; January 3, 1957 (Post Office and Civil Service): Limits officers of the uniformed services who have been retired for disability incurred in line of duty and who hold civilian office or employment with the United States to retired pay and civilian pay totaling $6,000 [amending U.S.C. 5:59a].

H.R. 1943. Mr. HOSMER; January 5, 1957 (Post Office and Civil Service): Repeals the dual employment statute and amends the dual compensation statute providing that certain exceptions may be authorized under the regulations of the U.S. Civil Service Commission whenever such exceptions are warranted on the basis of Government employ needs.

H.R. 11744. Mr. HOSMER; March 28, 1958 (Post Office and Civil Service): Repeals the dual compensation statute. Authorizes the Civil Service Commission to make exceptions, under certain conditions, to the provisions of the law which limit to $10,000 the total annual compensation and retired pay that a retired officer occupying a civilian office or position with the Government may receive. Directs the Commission to issue standards and regulations governing such exceptions and to include in its annual report to Congress a statement on the use of this authority [repealing U.S.C. 5:62; amending U.S.C. 5:59a(b)].

(86th Cong.)

S. 771. Mr. SPARKMAN; January 29, 1959 (Post Office and Civil Service): Limits officers of the uniformed services who have been retired for disability incurred in line of duty and who hold civilian office or employment

with the United States to retired pay and civilian pay totaling $6,000 or his election of either, if retired pay exceeds such figure.

S. 1165. Messrs. SPARKMAN and HILL; February 26, 1959 (Armed Services): Authorizes certain commissioned officers to receive up to $3,000 per annum in retired pay plus the full salary of any civilian officer or position under the U.S. Government or the municipal government of the District of Columbia.

H.R. 522. Mr. HOSMER; January 7, 1959 (Post Office and Civil Service): Repeals the dual compensation statute. Authorizes the Civil Service Commission to make exceptions, under certain conditions, to the provisions of the law which limit to $10,000 the total annual compensation and retired pay that a retired officer occupying a civilian office or position with the Government may receive. Directs the Commission to issue standards and regulations governing such exceptions and to include in its annual report to Congress a statement on the use of this authority [repealing U.S.C. 5: 62; amending U.S.C. 5: 59a(b)].

H.R. 657. Mr. Smith of Mississippi; January 7, 1959 (Post Office and Civil Service): Limits officers of the uniformed services who have been retired for disability incurred in line of duty and who hold civilian office or employment with the United States to retired pay and civilian pay totaling $6,000 [amending U.S.C. 5:59a].

H.R. 5080. Mr. RAINS; February 26, 1959 (Post Office and Civil Service): Authorizes certain commissioned officers to receive up to $3,000 per annum in retired pay plus the full salary of any civilian officer or position under the U.S. Government or the municipal government of the District of Columbia.

H.R. 5195. Mr. Foley; March 3, 1959 (Post Office and Civil Service): Exempts from the dual compensation provisions of Federal employment retired members of the Armed Forces who are not on active duty [amending U.S.C. 5:62].

(87th Cong.)

S. 3780. Mr. JAVITS; October 3, 1962 (Post Office and Civil Service):

Dual Compensation Act: Clarifies the law relating to the employment of civilians in more than one position and the civilian employment of retired members of the uniformed services. Provides that the retired member of a uniformed service shall receive the full salary of any civilian office which he holds, but, during the period he holds such office his retired pay shall be reduced to an annual rate of $2,000 plus one-half of the remainder, if any. Provides that the reduction in retirement pay shall not apply if retirement was (1) based on disability incurred in combat or in the line of duty during war, or (2) based on less than 6 years of continuous full-time active service, or (3) to employment of a retired member of a uniformed service on a temporary, part-time, or intermittent basis for the first 30 days of such employment. Further provides that exceptions to the restrictions on retirement pay may be prescribed by the President on the basis of special Government needs which cannot otherwise be readily met.

Prohibits dual compensation for more than one civilian office for more than 40 hours work in any 1 week except as authorized by the Civil Service Commission on determination that services cannot otherwise be readily obtained. These provisions do not apply to compensation on a when-actually-employed basis received from more than one consultant or expert position, as long as such dual compensation is not received for the same hours of the same day, and certain other specified exceptions covering compensation received by District of Columbia teachers, school officials, and custodial employees, certain Weather Bureau employees, and others.

H.R. 308. Mr. BENNETT of Florida; January 3, 1961 (Education and Labor): Permits retired personnel of the military services to receive pay for Federal civilian employment without loss of retirement pay.

H.R. 974. Mr. HOSMER; January 3, 1961 (Post Office and Civil Service): Repeals the dual compensation statute. Authorizes the Civil Service Commission to make exceptions, under certain conditions, to the provisions of the law which limit to $10,000 the total annual compensation and retired pay that a retired officer occupying a civilian office or position with the Government may receive. Directs the Commission to issue standards and regulations governing such exceptions and to include in its annual report to Congress a statement on the use of this authority (repealing U.S.C. 5:62; amending U.S.C. 5:59a(b)).

H.R. 6637. Mr. ST GERMAIN; April 25, 1961 (Post Office and Civil Service): Permits retired warrant, chief warrant, and commissioned warrant officers to hold other compensated public positions or offices.

H.R. 12721. Mr. MURRAY; July 30, 1962 (Post Office and Civil Service): Dual Compensation Act: Clarifies the law relating to the employment of civilians in more than one position and the civilian employment of retired members of the uniformed services. Provides that the retired member of a uniformed service shall receive the full salary of any civilian office which he holds but, during the period he holds such office his retired pay shall be reduced to an annual rate of $2,000 plus one-half the remainder, if any. Provides that the reduction in retirement pay shall not apply if retirement was (1) based on disability incurred in combat or in the line of duty during war, or (2) based on less than 6 years of continuous fulltime active service, or (3) to employment of a retired member of a uniformed service on a temporary, part-time, or intermittent basis for the first 30 days of such employment. Further provides that exceptions to the restrictions on retirement pay may be prescribed by the President on the basis of special Government needs which cannot otherwise be readily met.

Prohibits dual compensation for more than one civilian office for more than 40 hours work in any 1 week except as authorized by the Civil Service Commission on determination that services cannot otherwise be readily obtained. These provisions do not apply to compensation on a when actually employed basis received from more than one consultant or expert position, as long as such dual compensation is not received for the same hours of the same day, and certain other specified exceptions covering compensation received by District of Columbia teachers, school officials, and custodial employees, certain Weather Bureau employees, and others.

(88th Cong. through April 11, 1963, only)

H.R. 3816. Mr. HOSMER; February 14, 1963 (Post Office and Civil Service): Repeals the dual employment statute. Authorizes the Civil Service Commission to make exceptions, under certain conditions, to the provisions of the law which limit to $10,000 the total annual compensation and retired pay that a retired officer occupying a civilian office or position with the Government may receive. Directs the Commission to issue standards and regulations governing such exceptions and to include in its annual report to Congress a statement on the use of this authority [repealing U.S.C. 5:62; amending U.S.C. 5:59a(b)].

XI. THE SOLUTION, 1963

To date during the 88th Congress, H.R. 3816 is the only bill which has been offered as a solution for the problems and difficulties outlined. It is hoped that the administration may conclude its deliberations on possible alternatives in order that the issue may be considered by the Congress over the full spectrum of investigation it deserves.

The text of H.R. 3816 is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 212(b) of the Act of June 30, 1932 (47 Stat. 406), as amended (5 U.S.C. 59a(b)), is further amended by inserting immediately before the period at the end thereof the following: ': *And provided further,* That exceptions to the provisions of this section may be authorized by the United States Civil Service Commission whenever such exceptions are warranted on the basis of Government needs. The Commission shall issue standards and regulations governing such exceptions, which may permit such exceptions to be made by a certificate of the appointing officer for not more than thirty days in case of emergency, and shall include in its annual report to the Congress a statement on the use of this authority. In authorizing such exceptions the Civil Service Commission shall give consideration to such factors as (1) occupational shortages, (2) emergency conditions when such employment is necessary for the protection of life or property, or (3) highly specialized requirements for unique or uncommon positions'.

"SEC. 2. The following provisions of law are repealed:

"(1) Section 1763 of the Revised Statutes of the United States, as amended (5 U.S.C. 58).

"(2) Section 6 of the Act of May 10, 1916, as amended (39 Stat. 120; 5 U.S.C. 59).

"(3) The portion of section 6 of the Act of March 3, 1925, as amended, which follows 'page 1106' through 'page 582' (43 Stat. 1108; 5 U.S.C. 60).

"(4) Section 9 of the Act of October 6, 1917 (40 Stat. 384; 5 U.S.C. 61).

"(5) The paragraph which begins 'Section six' on page 823 of volume 40 of the United States Statutes at Large (5 U.S.C. 61).

"(6) The paragraph which begins 'Section 6' on page 1017 of volume 41 of the United States Statutes at Large (5 U.S.C. 61).

"(7) The second sentence of section 2 of the Act of July 31, 1894, as amended (28 Stat. 205; 5 U.S.C. 62).

"(8) Section 7 of the Act of June 3, 1896 (29 Stat. 235; 5 U.S.C. 63).

"(9) The proviso in the paragraph under the heading 'BUREAU OF THE BUDGET' on page 373 of volume 42 of the United States Statutes at Large (5 U.S.C. 64).

"SEC. 3. This Act shall take effect on the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act."

Here is what H.R. 3816 seeks to accomplish:

It amends the statute (5 U.S.C. 59a) prohibiting retired members of the Armed Forces from receiving retired pay when accupying a civilian office or position, appointive or elective, if retired pay plus the annual compensation of their civilian office or position exceeds $10,000 per annum, by adding another proviso to subsection 59a(b). Subsection 59a(b) already excepts from the statute persons whose retired pay plus civilian pay, amounts to less than $10,000 and to regular or emergency commissioned officers retired for disability incurred in combat or caused by an instrumentality of war and incurred in line of duty during war. The bill would add a new proviso which would permit the Civil Service Commission to authorize further exceptions when warranted based upon Government needs. The Commission would be required to issue standards for such exceptions, based on such factors as (1) occupational shortages, (2) emergency conditions when employment is necessary for the protection of life or property, and (3) highly specialized requirements for unique or uncommon positions. Civil service regulations could also permit appointing officers to make 30-day exceptions by certificate. The Com-

mission would be required to report the use of this authority to Congress in its annual report.

The bill also specifically repeals the double compensation and dual employment laws (5 U.S.C. 58, 62) now applicable to everyone in Federal employment together with the exceptions thereto as follows:

1. Revised Statutes 1763 as amended (5 U.S.C. 58), which provides that no appropriated funds shall be available for payment to any person receiving more than one salary when the combined amount of such salaries exceeds $2,000 per annum.

2. Section 6, act of May 10, 1916, as amended (39 Stat. 120; 5 U.S.C. 59), which excepts from the provisions of section 58, supra, retired officers or enlisted men of the Army, Navy, Marine Corps, or Coast Guard and the officers and enlisted men of the organized militia and naval militia in the several States, territories, and the District of Columbia.

3. The portion of section 6 of the act of March 3, 1925, as amended, which follows page 1106 through page 582 (43 Stat. 1108; 5 U.S.C. 60), which excepts from the double salary provisions of section 58, supra, additional salary paid to employees of the Library of Congress who perform special functions for the performance of which funds have been entrusted to the Library of Congress Trust Fund Board, or the Librarian of Congress, or in connection with cooperative undertakings, in which the Library of Congress is engaged.

4. Section 9 of the act of October 6, 1917 (40 Stat. 384; 5 U.S.C. 61), which provides that section 58, supra, shall not apply to District of Columbia public school teachers when employed by any of the executive departments or independent establishments of the United States or to such teachers who are also employed as teachers of night schools and vacation schools, nor to employees of the school garden department of the District of Columbia public schools, nor to employees of the community center department (see item 5, below) of the District of Columbia public schools. Note that these provisions are also set out in District of Columbia Code, 1961 edition, section 31–631 and that the act of July 1, 1942, 56 Stat. 467, chapter 467, brought school custodial employees, when performing required work in school buildings when the school buildings are used for nonrecreational official purposes of any Federal agency or department of the District of Columbia other than the Board of Education, under the exception to section 58, supra. These sections would undoubtedly be repealed, at least by implication by the repeals in item 1 and in this item 4.

5. The paragraph which begins "section six" on page 823 of volume 40 of the U.S. Statutes at Large (5 U.S.C. 61), which is the section excepting from section 58, supra, the employees of the community center department of the public schools of the District of Columbia, see item 4, supra.

6. The paragraph which begins "Section 6" on page 1017 of volume 41 of the U.S. Statutes at Large (5 U.S.C. 61) which is the section excepting from section 58, supra, the employees of the school garden department of the public schools, see item 4, supra.

7. The second sentence of section 2 of the act of July 31, 1894, as amended (28 Stat. 205; 5 U.S.C. 62), which prohibits a person, who holds an office the annual compensation or salary of which is $2,500 or more, from being appointed to or holding any other office to which compensation is attached unless specially authorized by law. Excepts retired officers of the Armed Forces, when elected to or appointed by the President with the advice and consent of the Senate to public office. Also it excepts retired enlisted men of the Armed Forces, retired for any cause, and retired officers thereof, retired for battle injuries or for injuries or incapacity incurred in line of duty.

8. Section 7 of the act of June 3, 1896 (29 Stat. 235; 5 U.S.C. 63) which is the section excepting, from section 62, item 7, supra, retired officers of the Army and Navy employed by Chief of Engineers of the Army in connection with the improvement of rivers and harbors.

9. The proviso in the paragraph under the heading "Bureau of the Budget" on page 373 of volume 42 of the United States Statutes at Large (5 U.S.C. 64) which is the section excepting from section 62, item 7, supra, retired officers of the Armed Forces who may be appointed to offices created by the Budget and Accounting Act of 1921, 42 Stat. 22, section 207 which created the Bureau of the Budget in the Treasury Department and provided for the appointment of a Director and Assistant Director.

The intention of the foregoing appears to be to repeal the double compensation and dual office holding acts (5 U.S.C. 58 and 62) and the exceptions thereto. Presumably, any exceptions to those two acts, not specifically listed, supra, such as 5 U.S.C. 64a and others, if they exist, would be repealed by implication.

The bill, by its terms, would be effective on the first day of the first calendar month beginning more than 30 days after date of enactment.

DR. MARSHAK'S ASSESSMENT OF RUSSIAN SCIENCE

Mr. HORTON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include an article by Robert E. Marshak, entitled "Reexamining the Soviet Scientific Challenge."

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

There was no objection.

Mr. HORTON. Mr. Speaker, I have the honor to have as one of my constituents a distinguished scientist. He is Dr. Robert E. Marshak, chairman of the Department of Physics and Astronomy of the University of Rochester, New York.

Dr. Marshak is eminently respected for his scientific aptitude in the field of nuclear physics. Further, his diplomatic abilities have led to his selection for trips to the Soviet Union and other areas of the world, there to meet with fellow scientists for discussions of common concern. Dr. Marshak has worked for many years to promote the international exchange of nonclassified scientific information.

In fact, it is a pleasure for me to inform my colleagues on this occasion of Dr. Marshak's recent naming as chairman of the National Academy of Sciences Advisory Committee for Eastern Europe. This group has among its responsibilities the negotiation of scientific exchanges between the United States and Russian and Eastern European bloc nations. The Committee works in conjunction with the U.S. Department of State.

The April issue of the Bulletin of the Atomic Scientists contains an article by Dr. Marshak that is deserving of the reading of all of us who legislate in the tense context of the cold war. In "Reexamining the Soviet Scientific Challenge," Dr. Marshak explores the vital distinctions between scientific communities operating in "open" and "closed" societies. He also brings some overdue definition to problems of our own country which tend to inhibit, rather than encourage, the extension of the frontiers of scientific knowledge.

The article follows:

Reexamining the Soviet Scientific Challenge

(By Robert E. Marshak)

On October 4, 1957, the U.S.S.R. hurled its first sputnik into outer space. Since then, the Soviet Union has orbited the first astronaut around the earth, tested nuclear weapons of novel and advanced design, and performed a significant experiment on controlled thermonuclear reactions. This was heady wine for the Russians and led them to proclaim at the 22d Communist Party Congress in November 1961: "It is a point of honor for Soviet scientists to consolidate the advanced branches of knowledge and to take a leading role in world science in all the key fields." Does this mean that the U.S.S.R. has already achieved a decisive scientific and technological supremacy and that we should retire gracefully from the competition with all the consequences this would entail?

To begin with, I should like to note a completely different type of statistic. Measuring time from the first sputnik—a new reference point—six sets of Nobel prizes have been awarded for distinguished research in physics, chemistry, and medicine. Of these 18 prizes, 11 have been won either in whole or in part by Americans and two have been won by Russians. The Nobel prizes are awarded for outstanding discoveries in pure science: if these prizes are taken as a measure of scientific achievement, the United States is far in the lead. I do not personally give great weight to these numbers but I would put this evidence on a par with drawing conclusions about the total spectrum of Soviet applied science from its space successes.

Let us now pose our general question in the form of several related questions. Is the Soviet Union ahead of the United States in applied science at the present time or will it soon forge ahead? Is the United States ahead of the Soviet Union in pure science at the present time and, if so, will the U.S.S.R. soon catch up? Is it possible to do an excellent job in applied science and a poor job in pure science or conversely? If so, what relationship does this have to the structure of American and Soviet societies and the ideological conflict between the two?

On the political level, the United States is an open and reasonably democratic society in contrast to the Soviet Union which is a closed and totalitarian society (less closed and less totalitarian than under Stalin but still in essence a dictatorship with firm controls over its citizens). On the economic level, the United States provides wide latitude for free enterprise and individual initiative, whereas in the Soviet Union all the means of production are in the hands of the Government and teamwork is encouraged and rewarded. In other words, the structure of society in the United States is characterized by openness, freedom, and lack of central control, whereas constraint, coordination, and central direction are some of the qualities which describe Soviet society.

At this point we must distinguish between pure and applied science. Warren Weaver in a 1960 essay entitled "A Great Age for Science" tells us that pure science "is not technology, it is not gadgetry, it is not some mysterious cult, it is not a great mechanical monster. Science is an adventure of the human spirit; it is an essentially artistic enterprise, stimulated largely by curiosity, served largely by disciplined imagination, and based largely on faith in the reasonableness,

order, and beauty of the universe of which man is a part." This characterization is a bit flowery and would smack of "bourgeois idealism" to some of my Soviet colleagues. But it correctly emphasizes that a pure scientist derives his chief satisfaction from fashioning a new piece of knowledge just as an artist derives his greatest pleasure from carving a new piece of sculpture. The pure scientist should have complete freedom both to choose the subject matter of his investigations and to draw the conclusions to which they lead, consistent with the laws of logic and nature.

The situation is different in applied science. The applied scientist has a practical goal in mind and attempts to enlarge existing scientific knowledge in rather well-defined ways to achieve this specified human purpose; usually the purpose encompasses the creation of new materials, devices, systems, methods, or processes. In other words, applied science comprises the technological applications of newly discovered scientific knowledge. It is a truism that applied scientists may create new knowledge and that pure scientists, motivated solely by curiosity, may make revolutionary discoveries of the greatest possible practical application. But the point is that applying science to satisfy man's needs automatically involves the society in which this work is done and society may be expected to call the tune. It is not surprising that the conditions most conducive to pure science may differ from those most beneficial for applied science.

The emphasis on private initiative which characterize the American way of life provide a very favorable climate for basic research. In the field of pure science, the freedom of the individual researcher should be maximized and conformity, in the sense of external constraint and control, should be minimized. The pure scientist should not even be expected to contribute to the attainment of well defined goals of the State. As Jerome Wiesner, the chief coordinator of science in the U.S. Government has said: "My job is to keep scientific anarchy working well enough so that people will not try to change it and create a massive department of science."

But the government control and central direction which characterize the Soviet way of life can be very effective in achieving certain well defined objectives of the nation. Once the basic knowledge has been created and a practical goal established, a highly organized team undertaking in applied science becomes both feasible and most likely to succeed. Indeed, from the vantage point of the chief coordinator of science in the Soviet Union, M. D. Keldysh, president of the Soviet Academy of Sciences, there is not much room for pure science as an end in itself. According to Academician Keldysh, "It would appear to be advisable to increase the share of allocations for scientific research and experimental design in proportion to the economic effect derived from the results of this work."

We thus have an interesting contrast. On the one hand we have the chaos in the United States which is ideal for pure scientific endeavor and which must serve as the starting point for the organization and control which are necessary to achieve national objectives in applied science. On the other hand we have the central control of the Soviet system which readily handles national objectives in applied science but which must be loosened up to provide the proper conditions for pure scientific work. The questions we have raised may therefore be rephrased. We expect the Russians to do well in applied science because they can readily set national objectives and mobilize the resources to attain them. Is this true and to what extent may we expect the Russians to make outstanding contributions to pure science? Conversely, we expect Americans to excel in pure science because of their independence and traditional freedom of thought. Is this true? To what extent may we expect individual American scientists and engineers to join into teams which can be assigned well-defined goals in applied science.

SOVIET STRENGTHS AND POTENTIAL

Soviet space triumphs are due to an early and precise delineation of a major national goal in applied science and a most detailed and deliberate organization of the wherewithal to achieve it. When I was in Poland last July, I was told that the Russians have offered the Poles the option of taking over the manufacture of Van de Graaff accelerators for the entire Eastern bloc because the institute formerly assigned this task is now heavily engaged in the manufacture of space equipment. Russian colleagues in other fields of science constantly refer to the extent to which the Soviet space program drains off funds and personnel which might otherwise have been allotted to their programs. The singlemindedness with which the Soviet Government is approaching the space race is truly impressive.

Indeed, we must reckon with other well-defined national goals in applied science which the Soviets have set for themselves during the next decade. Apart from constructing spaceships which will enable men to penetrate into outer space, they propose to achieve the electrification of the entire country, comprehensively mechanize and automate production, develop methods of direct conversion of thermal, nuclear, chemical, and solar energy into electrical power, and solve the problem related to the control of thermonuclear reactions—and these are only a small part of their master blueprint for applied science. It is recognized that some of these goals are short range and may actually be reached during the next decade while others are long range and may only attain preliminary design stages. Coordination of science and technology is to be expedited by official councils consisting of scientists, engineers, and industrial leaders and further encouraged by the public press, scientific and engineering societies, and prize competitions. (More than a year ago, a new and all-embracing state committee on the coordination of research and development was set up in the Soviet Union for the express purpose of developing plans for achieving state goals in applied science.)

The Soviet Union has also taken necessary steps to increase the chances of success for these ambitious plans. It is stepping up the training of engineers (which already exceeds 125,000 per year and is three times as many as in the United States), increasing the output of industrial technicians and aids (which is approaching the quarter-million mark per annum and is probably five times as high as in the United States), coordinating the theoretical and experimental aspects of scientific and engineering training, and in general raising educational standards. Moreover, the Soviet state can set enrollment quotas for each level of education and increase or decrease the flow of certain types of scientific and engineering manpower in accordance with its master plan. It is evident that the Soviet educational system is well designed to train specialists who contribute effectively in applied science. This concentration of effort on applied science constitutes a tremendous challenge and is bound to lead to additional breakthroughs in some of the areas on which the Soviet state has focused its attention.

PURSUIT OF PURE SCIENCE

At the same time, the Soviet Union is establishing more favorable conditions for the pursuit of pure science. The draft program of the 22d Congress of the Soviet Communist Party recognizes that a "high level of development in mathematics, physics, chemistry, and biology is a necessary condition for the advancement and effectiveness of technical, medical, agricultural, and other sciences." The Soviet Union implements this statement of principle by providing large installations needed for such a pure science as high energy physics and by supporting such basic studies as those on the origin of life, metabolism, and heredity. Indeed, since Stalin's death, many of the conditions of scientific freedom which are indispensable for carrying on basic research have been established again to a considerable extent. It appears that the individual research person in the Soviet Union is now relatively free to choose the subject matter of his own research although the strong emphasis on practical applications to achieve state goals may sometimes interfere with this freedom. In addition, the Soviet research person in pure science can usually—but not always—draw the conclusions to which his investigations lead without subjecting them to the requirements of some nonscientific authority.

The situation in the last respect is particularly unpredictable in the biological sciences. There is always the possibility that a powerfully placed and devout Communist like Lysenko will attempt to impose an extrascientific conformity on his scientific colleagues. This is done in two steps: first, a potential Lysenko argues that the philosophical dogma of the Soviet state—dialectical materialism—is capable of deciding what concepts and procedures should be adopted in a given science; then, when the party line has been established, those scientists who attempt to follow the ideas and methods suggested by their own experimental data are penalized for nonconformity. This is an exquisite way to kill a science because it is done so self-righteously.

As we know, under Stalin, some of the biological sciences were badly damaged by overenthusiastic proponents of dialectical materialism although the physical sciences escaped relatively unscathed. During the present era, the biological sciences have returned to a more normal state of operation and the individual research person has recaptured much—but not all—of his lost scientific freedom. The qualification is necessary because it seems that even under Khrushchev, M. M. Dubinin, the foremost representative of classical genetics in the Soviet Union, was given the directorship of a new laboratory of genetics in Siberia but was replaced a year later allegedly on direct orders from the Kremlin. The public exhortation last spring by the distinguished Soviet Physicist Peter Kapitza against the intrusion of Marxist ideology into science (with specific reference to biology) is a good indication that a Lysenko-type interference with natural science is not excluded even at this late date.

The lifeblood of pure science is open communication. The individual Soviet researcher is now free to publish his results, engage freely in scientific criticism, and have a limited number of personal contacts with his colleagues from the West, although it is never certain that even the most distinguished Soviet scientist will be permitted to attend an international conference in a foreign country. But the Soviet Government is slowly recognizing that the quality and sophistication of its pure science is strongly dependent on its fullfledged acceptance of the principle of open communication among scientists of all countries. Thus, while the conditions for outstanding performance in pure science are still far from ideal in the Soviet Union, they are such a vast improvement over those which prevailed during the Stalin era that important, if not spectacular, contributions to pure science are to be expected during the next decade.

Major improvements in the quality of Soviet work in pure science may even be felt by the end of this decade because of certain organizational changes which are being un-

dertaken now by the Soviet Government. They include the decentralization of scientific research in the Soviet Union to a large number of centers stretching as far east as Novosibirsk in Siberia; the initiation of a move to improve the quality of pure scientific research in the Russian universities instead of having the bulk of the research concentrated in the specialized academy institutes; the recent modification of examination procedures for the doctoral degree which requires outside examiners (thus breaking the chain of inferior performance in some of the leading Russian universities); and the recent revision of the mandate to the Academy of Sciences of the U.S.S.R. withdrawing from its jurisdiction most of the applied science institutes.

I am convinced that a great many senior Soviet scientists are well acquainted with the conditions required for highly productive work in pure science and will increase their efforts to shield the younger scientists from external state pressures. A press release last spring quoted the Nobel laureate Igor Tamm as saying: "It often happens that when the faculty recommends a student for a research post, it is claimed that the social activity is insufficient, even if the reason for this is not any lack of political consciousness but rather an absorption in scientific work." The implication is clear: the Soviet state should recognize that science, like art, is a way of life for a talented young person.

AMERICAN STRENGTH AND POTENTIAL

American accomplishments in pure science since the end of World War II have been much more impressive than the Russian contributions, ranging all the way from important discoveries in high energy and solid state physics to major breakthroughs in genetics, biochemistry, and medicine. I think that it is fair to say that only Russian mathematics and theoretical physics are in any way comparable to the quality of similar American research.

The strength of the American position in pure science is due to a combination of fortunate circumstances. The emphasis on individual initiative which characterizes the American way of life provides a very favorable climate for the practice of pure science. Most pure science in the United States is performed in university laboratories where the conditions of intellectual freedom are strongly sustained by a healthy tradition of academic freedom, which we have received from Europe and have passed on a matter of course to the next generation. Academic scientific centers of high standing are so widely dispersed that scientific talent almost anywhere need not languish for lack of encouragement. We have a hospitable attitude toward foreign scientists in staffing our university departments and the foreign scientists have fully justified our confidence by contributing in an essential way to the achievements of pure science in the United States. And our Federal Government provides strong financial support for university research without seriously infringing on the independence and freedom of the individual scientist.

It is therefore not surprising that the recent American record in pure science is so outstanding. Furthermore, there is every reason to expect that our record will continue in the immediate future because, apart from the qualitative superiority of American compared to Soviet basic research at the present time, the quantitative output of pure scientists in both countries is approximately the same.

When we examine American performance in applied science, the picture is much more confused. Applied research is carried on largely in American industrial laboratories and to a lesser extent in Government laboratories. The problem is coordinating the applied science work at the numerous industrial laboratories in order to accomplish important national objectives. During a national emergency, setting up a large Government laboratory which drafts leading scientists and engineers in order to attain a well-defined national goal is both acceptable and workable. During peacetime, or even during a tense period, this is not acceptable and therefore not workable. Some more elaborate and costly mechanism must be set up to coordinate the deliberate chaos which characterizes our free enterprise system and which provides the ideal climate for pure science. One popular mechanism is the nonprofit laboratory which coordinates the applied science and development work of a large number of industrial laboratories. Setting up a national missile laboratory in analogy to the Los Alamos Atomic Bomb Laboratory established during the war has only been partially successful in the form of the Goddard Space Science Center.

We are in a genuine dilemma. How can we reconcile the openness and freedom which are essential for the practice of pure research with the coordination and control which are required for success in applied science undertakings on a grand scale, such as the man-on-the-moon program? Evidently, national planning will be required but in what form and to what extent?

It is clear that our national planning in applied science must start on various levels. We must first establish our national goals in applied science and identify those of short-range importance for the national welfare and security and those of vital importance. The determination of national goals requires the participation of scientists and engineers at the highest level of the decisionmaking process on a permanent basis. It has been pointed out repeatedly that a very high percentage of scientifically and technically trained persons operate at the high administrative levels where decisions are made in the Soviet Union. In the United States there is a severe shortage of top administrators in policymaking positions who can exercise independent scientific and technical judgment. The absence of such people in high Government councils is due to the tremendous salary differential between top administrators in industry and in Government. In an attempt to obtain the scientific and technical advice needed to establish our national goals in applied science, the Government has been compelled to fall back upon part-time consultants who at the same time are eagerly sought and handsomely paid by the industries which seek the development and hardware contracts. The so-called scientific scandals which may be aired during the coming year are an inevitable consequence of the disparity between our normal free enterprise way of doing things and the need of our Government to cope in an organized way with the scientific and technological explosion which is upon us.

RESOLVING THE AMERICAN DILEMMA

I do not wish to leave the impression that nothing has been done to provide our Government with top level scientific advice to help define our national goals in applied science. After the first sputnik was hurled into orbit, President Eisenhower created the Scientific Advisory Committee which has been of invaluable assistance to the executive branch of our Government. In 1958, President Eisenhower set up the Federal Council for Science and Technology which consists of high-ranking officials from the Federal agencies supporting major research and development programs. And more recently, President Kennedy issued an Executive order creating a semi-Cabinet post for his chief science adviser, Jerome Wiesner. The American Federal Council for Science and Technology is the analog of the Soviet State Committee on the Coordination of Research and Development in that both are supported to exercise national planning and policy roles. However, there is one very important difference: the Soviet committee embraces all scientific and technical matters whereas the U.S. council is only concerned with those applied science activities carried on by the Federal Government. The vast private industrial sector is outside the jurisdiction of the council and somehow does not make its proper contribution to the establishment and implementation of national goals.

I know that this is a delicate question but I would suggest that perhaps an industrial council for science and technology might be set up, consisting of some of the leading scientists in industrial research laboratories, which would present its views to the Federal Government, let us say through Mr. Wiesner, on desirable national goals in applied science. By learning to coordinate the advice which is extended to the government, perhaps the industrial laboratories will develop mechanisms for implementing more efficiently within the framework of the free enterprise system the national goals in applied science which are finally selected. In particular, perhaps something can be done to eliminate the wasteful duplication of effort in achieving major national goals.

This duplication is a natural concomitant of the free enterprise system and the competitive spirit which leads to progress on many fronts but it becomes a dangerous luxury when large commitments of scientific and technical manpower are involved. For example, some time ago, NASA announced that the man on the moon program will require several thousand more engineers. We cannot recruit them from the universities, which have a very small number of nonteaching engineers; we can only train them from the beginning or recruit them from industry or other government laboratories. We must do both, and one function which could be performed by an industrial council for science and technology would be to effect a voluntary assignment of quotas of engineers from the different industrial laboratories to NASA in accordance with a mutually agreed-upon plan, so that the national man on the moon program can be achieved as quickly as possible.

Some of our national goals require long-range planning and coordination. In order to educate a sufficient number of scientists, engineers, and technicians who will do the jobs necessary to achieve our national goals in applied science and development, we must provide funds to colleges and universities for enlarging and improving scientific and engineering facilities in the form of buildings, laboratories, and equipment. It is necessary to set up a reasonable number of technical institutes which will train the many students with science aptitudes who, for one reason or another, either do not wish or are unable to undertake a 4-year curriculum; this additional technical manpower will release a sizable number of more highly trained scientists and engineers for responsible positions. It is necessary to figure out ways of making it possible for women to enter more seriously upon scientific and engineering careers in the United States.

Finally, it is necessary to liquidate our Civil War after 100 years. The treatment of Negroes in the South not only deprives the Nation of a substantial reservoir of scientists and engineers, but it also inhibits high intellectual attainment on the part of the white population. Last year, the General Electric Research Laboratory made a survey of the papers published during 1960 in the leading journals of chemistry and physics by all the university, Government, and industrial laboratories in the country. During this entire year, the State of Mississippi, with a population of 2 million, had to its credit not a single paper in chemistry or in physics.

This is to be compared with the moderately sized University of Rochester which published in excess of 100 papers during the same period. Let us recall that the State of Mississippi only accepted token integration after a display of force by Federal troops. I submit that a State which is still so harsh and unyielding in its sociopolitical structure can hardly be expected to make its proper contribution to the achievement of our national goals in applied science, let alone sustain creative contributions in pure science.

TO THE MOON TOGETHER

Despite these many problems, I believe that our undoubted leadership in pure science will continue to be nurtured by the openness, freedom, and free enterprise spirit which characterize our society. Our accomplishments in pure science will provide a vast reservoir of ideas for important achievements in applied science, and our innate good sense and good will lead to a voluntary rational measure of coordination and control in those areas which are indispensable for the achievement of our national objectives in applied science. I believe that the Soviet methods of strict supervision and control will lead to numerous short-range breakthroughs in applied science but that the momentum will not be sustained unless there are also significant advances in their pure science. A great improvement in the quality of these achievements will depend upon their ability to fully establish the conditions of scientific freedom which are essential for highly creative work in pure science.

It is unlikely that the conditions of scientific freedom in the U.S.S.R. will match ours unless there is a substantial opening up of their society on all fronts and this implies the reestablishment of a large measure of political freedom. If the Soviet Government comes to realize—and I believe that the Russian scientists already do—that scientific and political freedom go hand in hand and that it is difficult to guarantee scientific freedom without a major liberalization of Soviet society in all its aspects, there is bound to be a great efflorescence of pure science in the Soviet Union. And if a large measure of political freedom is established in the Soviet Union, it is quite likely that we shall be sending our American astronauts together with their Russian counterparts on joint expeditions to the moon and other celestial objects beyond.

SUGAR PRICES AND FOREIGN LOBBYISTS

Mr. LANGEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

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

There was no objection.

Mr. LANGEN. Mr. Speaker, the folly of having sold American sugar producers down the river in favor of the foreign sugar lobbies is now evidenced in the higher prices American housewives are now paying.

I have pointed out repeatedly in recent years that we should have reversed the unwise policy of increasing the foreign quotas substantially more than domestic quotas, and I have warned that the situation could seriously affect the future supply of this strategic commodity.

It was just last year when I and others pointed out how the foreign lobbyists were sweetening their pockets by millions of dollars, and of the failure of the Departments of State and Agriculture to respond effectively to the problem.

Now is the time for action to protect the American consumer from unreasonably high sugar prices and possible future shortages of this commodity. I note with interest that Republican members of the Agriculture Committee have asked the committee chairman to reopen hearings on the matter. I consider it a most appropriate move under existing circumstances.

This seems to be the opportune time to provide for further expansion of domestic production of sugar. Of course, it should have been done 2 or 3 years ago, so the plants needed to process the sugar could have been in operation by now, and the growers could have had their sugar beets in the ground. Even a green light at this moment will take time before our domestic growers can realize their desire and right to contribute their fair share of our sugar needs.

HOUSE AGRICULTURE COMMITTEE SHOULD INVESTIGATE SUGAR SITUATION

Mr. LANGEN. Mr. Speaker, I ask unanimous consent that the gentlewoman from Washington [Mrs. MAY] may extend her remarks at this point in the RECORD.

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

There was no objection.

Mrs. MAY. Mr. Speaker, the Department of Agriculture, in a press release last Thursday, May 23, assured the public that sugar supplies will be sufficient to meet all requirements for household, institutional, and industrial use and to provide reasonable stocks of sugar for distributors, users, and ultimate consumers. The purpose behind the Department's press release is to discourage consumers from hoarding sugar during this period of skyrocketing sugar prices. The release states that the national sugar consumption needs are either in hand or in sight, and indicates that the only way a shortage could develop would be for consumers to hoard sugar supplies.

It is good to know that the Department is confident that, barring public hoarding, we will not experience a sugar shortage. I certainly hope that the Department is correct in its assurances of availability of ample supplies. And I wish also to express the hope that consumers will not hoard, because such action is bound to make a critical situation much worse.

As a Representative from a beet sugar producing area, I know that the price rise in sugar would be much more easily accepted by housewives in the State of Washington if they knew our sugar farmers were sharing in the increased prices. I regret to report, however, that the price rise is not being fully reflected in added income to growers of sugarbeets in the State of Washington, and this is what makes the current price situation so difficult for the consumers in my State to understand, much less appreciate.

As everyone knows, the United States leans heavily on foreign nations for its sugar supplies, and if these nations are unable to fulfill their commitments to us, we experience a shortage. There is no other alternative. This is why, Mr. Speaker, it is so imperative that the farmers of our Nation be given full opportunity to produce more of our Nation's consumption requirements. This is why we amended the Sugar Act in 1962 to provide, by law, that domestic producers may provide more sugar to the Nation's sugar bowl. When next the Sugar Act is reviewed by the Congress, I believe we should consider further reductions in our Nation's dependence on foreign sources.

Certainly, had Congress acted 2 years earlier in allowing expansion of the domestic industry, the threat of a temporary shortage would have been materially cushioned because we would have more farmers growing sugarbeets and more factories refining the sugar for distribution to our consumers today.

The Department of Agriculture still has not allocated 95,000 tons to new growers as provided in the Sugar Act Amendments of 1962. This is enough to build and operate two additional sugar-processing mills in the United States. The Department informs me it has no plans to allocate these 95,000 tons for some time to come and that these two mills cannot be in production until 1966. In this connection I would like to point out that last October, during the Department of Agriculture's sugar allocation hearings, I appeared before the Department in support of a request by the Utah-Idaho Sugar Co. for an allocation to produce an additional 32,000 tons at their Moses Lake, Wash., refinery, through an expansion of their existing facilities. Had this request been granted, Mr. Speaker, the American sugar consumer would not be forced to rely quite so heavily on the current Department of Agriculture press release stating that in recent days the Department has received new assurances from foreign countries that they will fulfill their quota commitment.

The Moses Lake, Wash., area is located in the northern part of the Columbia Basin project, and is particularly adapted to the production of sugarbeets, with one of the highest per acre tonnage productions in the United States at 24.7 tons per acre. And this is a new grower area which makes it fully eligible for tonnage allocation by the Department of Agriculture.

The foregoing facts, of course, do not help the immediate situation. But they point up the fact that the appropriate committee in Congress should review the events which have led to the current sugar situation. The House Committee on Agriculture is charged with the sole constitutional and legislative authority to initiate sugar legislation and therefore is the proper forum for such a review. The minority members of the House Agriculture Committee have urged the chairman of our committee to schedule a meeting of the committee to determine the effects of the 1962 amendments

to the Sugar Act, the manner in which the act is currently being administered, the facts concerning present sugar supplies in the United States, whether all foreign nations are acting within the spirit of the Sugar Act by making timely deliveries, and whether the Soviet Union through its influence in Cuba is in any manner responsible for current high sugar prices in our country.

We are hopeful, Mr. Speaker, that the chairman will grant our urgent request.

THE LATE ORVIL E. DRYFOOS

Mr. LINDSAY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include an article.

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

There was no objection.

Mr. LINDSAY. Mr. Speaker, at 10 o'clock this morning was the funeral service of my constituent and friend, Orvil Dryfoos, publisher and president of the New York Times. Orvil Dryfoos' death at the age of 50 shocked and saddened every New Yorker and every American who treasures standards, integrity, and independence in American journalism. Orvil Dryfoos possessed a heart and mind as wide and as high as the sky, and his devotion to the betterment of mankind had no limit. New York and the Nation mourn the passing of Orvil Dryfoos and remember with grateful thanks the quiet inspiration of his life. The heartfelt sympathies of the thousands who knew him go to his lovely wife and his family.

Mr. Speaker, the obituary that appeared in the New York Times yesterday, May 26, is a beautifully written piece, describing the life of Orvil Dryfoos. It should be read by all who admire the work of a great newspaper and of a great man.

ORVIL E. DRYFOOS DIES AT 50; NEW YORK TIMES PUBLISHER

Orvil E. Dryfoos, president and publisher of the New York Times, died of heart disease shortly after 3 a.m., yesterday in the Harkness Pavilion of the Columbia Presbyterian Medical Center. He was 50 years old.

Mr. Dryfoos entered the hospital on April 15. Two weeks earlier, at the end of the 114-day strike, he had gone to Puerto Rico for a rest. But while there he entered San Jorge Hospital at Santure, near San Juan.

Upon his return to New York, he went directly from the airport to the medical center.

During his final illness he was in good spirits and replied cheerfully to get-well messages. He said he was getting a good rest and hoped to be back on the job soon.

Mr. Dryfoos had had rheumatic heart disease as a young man. He first learned of it when it prevented his acceptance for military service in World War II.

Mr. Dryfoos is survived by his widow, three children, his mother, and two brothers. Mrs. Dryfoos is the former Marian Effie Sulzberger, oldest child of Arthur Hays Sulzberger and Iphigene Ochs Sulzberger. Mr. Dryfoos succeeded Mr. Sulzberger as president and publisher of the Times. Mr. Sulzberger is chairman of the board of the newspaper.

The three Dryfoos children are Jacqueline Hays, born May 8, 1943; Robert Ochs, born November 4, 1944, and Susan Warms, born November 5, 1946.

Mr. Dryfoos lived at 1010 Fifth Avenue, near 81st Street, and at Rock Hill, Stamford, Conn. His mother, the former Florence Levi, now Mrs. Myron G. Lehman, lives at Carlton House. His father, Jack A. Dryfoos, died at the age of 52 in 1937. His brothers are Donald Dryfoos, of 301 East 47th Street, and Hugh Dryfoos, of 969 Park Avenue.

A funeral service will be held at 10 a.m., tomorrow at Temple Emanu-El, Fifth Avenue at 65th Street. The burial will be private. The family has requested that instead of sending flowers, friends make contributions to Dartmouth College, from which Mr. Dryfoos was graduated in 1934.

Mr. Dryfoos took over the duties of publisher of the Times from Mr. Sulzberger on April 25, 1961. He had been president of the New York Times Co. since 1957 and a director since 1954, when he was named vice president.

Beginning in 1943 he served as assistant to the publisher. For a year previously, he was on the Times's local reportorial staff. It was in that capacity that he began newsroom friendships that continued on a first-name basis for the rest of his life.

Mr. Dryfoos brought to his associates a genial disposition and a warm good nature that showed itself in his ready smile. An adjective frequently applied to his appearance was "boyish."

At the same time, he brought to the newspaper a dedication and a steadiness of judgment that met a severe test in the 16-week newspaper strike, the longest and costliest in the industry in this city.

The long negotiations were wearing on those who were to any degree involved. (During a lull, Mr. Dryfoos flew to Puerto Rico for a few days, but he was already feeling the effects of his illness and did not get the rest he had sought.)

An informal, unpretentious man, the publisher kept generally in the background during the tedious and sometimes rancorous talks. Yet he exerted a constant influence toward conciliation and a fair settlement.

He kept in mind the situation of newspapers in a weaker position, whose survival was threatened. There were times when he acted as a peacemaker and was instrumental in persuading negotiators to resume.

MOBILIZED RESOURCES

During the strike, the Times' working personnel dropped from about 5,000 to 900. Mr. Dryfoos and his advisers mobilized the 900 so that the newspaper could continue to publish its international and western editions and maintain its ancillary services as far as possible.

The 72 newspapers in the United States, Canada, and overseas that subscribe to the New York Times News Service were given 20,000 words a night.

The western edition of the Times, printed in Los Angeles since October 1, 1962, continued to receive most of its 80,000 words a day from the New York office.

The western edition had been announced formally by the Times on October 31, 1961, after a year's study of the operation of the international edition, printed in Paris since October 1960.

Dr. Dryfoos had taken a primary role in the groundwork for the western edition; this was one of the major steps taken during his administration as publisher.

The international edition continued to receive an average of 36,000 words a night during the strike. WQXR, the Times' radio station, more than doubled its news broadcast time,

Throughout the long winter of dislocation, Mr. Dryfoos maintained contact with his staff, including those who were not at work.

He wrote a letter to employees at their home addresses early in the shutdown. Some of them replied to Mr. Dryfoos to express their appreciation of the tone of the letter.

On March 9, he wrote again, promising "a warm welcome" when the strike was over. And on March 31, when employees finally returned to work, they found a letter reproduced in Mr. Dryfoos' handwriting, beginning: "It's good to see you back at work."

To a friend, he wrote on March 14, when the end of the strike remained in doubt: "Certainly these hundred days have been the most awful I have ever lived through." And, in a scrapbook begun when he was appointed publisher, a reproduction of the Associated Press bulletin announcing the end of the strike, on March 31, lay yesterday at the top of a batch of unmounted material.

Apart from an ability to maintain a personal touch throughout his large organization, Mr. Dryfoos, as publisher, strove to make the Times more readable and more incisive while sacrificing none of the paper's news coverage.

Mr. Dryfoos' first act as publisher, announced on April 25, 1961, was the appointment of John B. Oakes as editor of the editorial page. He kept in close touch with Mr. Oakes on editorial policy.

He also kept abreast of the daily news flow. He usually attended the daily news conference, at which the next morning's newspaper is planned.

The publisher also bore a heavy responsibility for the economic health of the paper. The Times operated on a profit margin so modest that it sometimes astonished men in other lines of business.

While Mr. Dryfoos, like Mr. Sulzberger and Adolph S. Ochs before him, felt that his primary task was to maintain the paper's independence and reliability, he also felt that it was necessary for the institutional strength and growth of the New York Times to improve its profit position. He made that one of his principal aims as publisher.

MARRIED IN 1941

Orvil Eugene Dryfoos joined the Times 6 months after his marriage on July 8, 1941, to the Sulzbergers' daughter. Mr. Sulzberger in 1935 had succeeded his own father-in-law, Mr. Ochs, as publisher.

"I was sensible enough to marry the boss' daughter," Mr. Sulzberger once remarked to Mr. Dryfoos, "and you were, too."

Marriage changed the course of Mr. Dryfoos' career. A sociology major at Dartmouth, he had obtained his Bachelor of Arts degree and then started as a runner in Wall Street. Eventually, he bought a seat on the New York Stock Exchange. Mr. Sulzberger urged him to join the Times.

"I was hesitant about coming in," Mr. Dryfoos once recalled. "I was enjoying my work downtown, and doing fairly well, considering conditions then. When Mr. Sulzberger spoke to me about it, I thought about it for some time before I made my decision."

When, having made his decision, and joined the Times, Mr. Dryfoos was put into the city room. For a year he worked as a cub reporter and once had an unbroken string of 17 night assignments—an ordeal that gave him a lasting distaste for after-dinner speeches.

He also worked as a legman for more experienced reporters. Late in March 1942, he accompanied two of them to an arms plant in Bridgeport, Conn., where an explosion had killed three persons and injured many.

FOUND SATISFACTION

It was an assignment that gave the junior reporter great professional satisfaction, and any reference to it over the next 20 years invariably drew a warm response from Mr. Dryfoos.

As a reporter he never got a byline—an omission he occasionally referred to later with mild regret.

For a while, he was on the make-up desk. Then he was named assistant to Mr. Sulzberger. As an executive observer, he accompanied Times teams to every major party national convention, beginning in 1944.

As an administrator, Mr. Dryfoos made an outstanding record at the Times. He knew how to delegate responsibility and at the same time how to master intricate details himself. But none of his ultimate responsibilities lessened his ease of manner with his staff.

During the late-hour negotiations in the Daily News strike last November that preceded the citywide shutdown, Mr. Dryfoos never failed to chat with his own and other reporters assigned to the meetings.

Orvil Dryfoos was born in New York on November 8, 1912. His father was in the textile business and was treasurer of a paper novelty manufacturing company. The boy was sent to the Horace Mann School, where he was on the soccer, tennis, and swimming teams. He also wrote a sports column called "The Dug Out" for the Horace Mann Record.

HONORARY DEGREE GRANTED

From Horace Mann he went to Dartmouth. In 1957 Dartmouth granted him an honorary master of arts.

Last June he received an honorary doctor of laws degree from Oberlin College.

His first job was with the brokerage firm of Asiel & Co., where he remained for 3 years. In 1937, as a partner in Sydney Lewinson & Co., he purchased a seat on the Exchange. He was an active trader until the end of 1941, and gave up his seat on the Exchange 8 years later.

A sketch of Mr. Dryfoos in the Times of April 26, 1961, on his appointment as publisher, noted that he "is not known as a 'driving' executive, although he can be firm when necessary," and that "he prefers to vest responsibility in competent men and let them carry out the duties to which they have been assigned."

Mr. Ochs, publisher of the Times from 1896 until his death on April 8, 1935, wrote in his will that it was the responsibility of the Times to be "an independent newspaper, entirely fearless, free of ulterior influence, and unselfishly devoted to the public welfare without regard to individual advantage or ambition, the claims of party politics, or the voices of religious or personal prejudice and predilection."

Under that will, Mr. Dryfoos eventually became one of three trustees controlling a majority of the voting stock of the Times. He succeeded Julius Ochs Adler, vice president and general manager, who died on October 3, 1955. The two other trustees were Mr. and Mrs. Sulzberger.

SETS FORTH GOALS

In a personal statement on the editorial page on his first day as publisher, Mr. Dryfoos wrote:

"I pledge that my associates and I will maintain vigilantly the high standards set by our predecessors."

Mr. Dryfoos became president of the company in 1957, and Mr. Sulzberger, remaining as publisher, became board chairman, a new position in the organization. Mr. Sulzberger's retirement as publisher came 4 years later.

Mr. Dryfoos was active in civic, educational, philanthropic and publishing industry programs. He was a trustee of Dartmouth College and a lay trustee of Fordham University. He was a trustee and a member of the executive committee of the Rockefeller Foundation.

He served as a director of the New York Convention and Visitors Bureau, the Hundred Year Association of New York, the Fifth Avenue Association and the New York World's Fair 1964.

In 1963, when he retired as a director of the Bureau of Newspaper Publisher's Association, he was awarded a bronze plaque for distinguished service to the newspaper business.

AIDED RED CROSS

In World War II he was vice chairman of the New York Red Cross Chapter's Blood Donor Committee. This was the forerunner of the peacetime blood donor program.

Mr. Dryfoos was a trustee of the Baron de Hirsch Fund. He belonged to the France-America Society, the American Australian Association, the Pan-American Society of the United States, the Pilgrims and Sigma Delta Chi.

He was a member of Congregation Emanu-El.

His clubs included the Century Country of White Plains, the Dutch Treat and the Century Association of 7 West 43d Street. His suburban address was 1219 Rockrimmon Road, Stamford.

Mr. Dryfoos was president and director of the Interstate Broadcasting Co., Inc. (WQXR), and various Times subsidiaries. He headed the New York Times Foundation, a corporation arranged for charitable purposes, and the New York Times neediest cases fund.

DEFENSE PROCUREMENT COMPETITIVE BIDDING

Mr. WILSON of Indiana. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

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

There was no objection.

Mr. WILSON of Indiana. Mr. Speaker, defense procurement takes up more than $30 billion of our staggering $55 billion budget for national defense, and 85 percent of that money is spent without the benefit of full and open competitive bidding.

That is why I have advocated a blue-ribbon, nonpartisan committee with the specialized function of "watchdogging" this vast area of Government expenditure. The FBI and the General Accounting Office do remarkable work, but they enter the field only upon specific complaint or, occasionally, in the course of other business.

For 2 years, Mr. Speaker, I have been standing in this House talking about waste, impropriety, and sometimes corruption in defense procurement. No doubt some Members have noted my remarks with some skepticism or lack of interest, just as many, many Members have endorsed them. To all of these, I commend a real eyeopener—two articles on defense procurement that I believe will raise the hair on the back of your neck and make your blood boil with anger. The articles detail the deep-rooted corruption found by the FBI during an investigation of Army Signal Corps contracting, particularly at Fort Monmouth, N.J. They appeared in the Chicago Daily News, the newspaper which helped crack the Fort Monmouth bribery case which involved the arrest of two top-ranking civilian engineers and a manufacturer's representative on charges of conspiring to fix a $2,400,000 electronics contract for a $48,000 kickback.

Those arrests were followed by an extensive but heretofore unpublicized investigation that these stories describe—an investigation that disclosed what I believe to be one of the most shocking pictures of corrupt military procurement operations uncovered since World War II.

Mr. Speaker, I am inserting these two articles at this point in my remarks, and I want to urge each and every Member to take the time to read them. They could be the most important articles that a Member of Congress, sincerely interested in saving the taxpayers' money, ever studied.

FORT MONMOUTH—10 MONTHS AFTER EXPOSÉ

(In July 1962 FBI agents arrested a manufacturer's representative and two top Army Signal Corps civilian engineers from Fort Monmouth, N.J., on charges of conspiring to fix electronics contracts for cash. Here is the untold story of the extent of corruption uncovered after those arrests and what the Army has—and has not—done, 10 months later to correct it.)

(By Charles Nicodemus)

FORT MONMOUTH, N.J.—Behind this key electronics installation's placid facade of wide lawns and trim pastel buildings there lay a small but deep-rooted cancer of corruption, the worst found since World War II.

That was the conclusion produced by a massive FBI investigation of Signal Corps contracting begun here last July after the arrest of two top civilian engineers. They were charged with trying to rig a $2.4 million contract for a $48,000 kickback.

Detailed findings of the probe were spelled out for the Army in a long series of FBI investigative reports and two closeout memorandums sent by the Justice Department to the Army Materiel Command in January.

(The Signal Corps was absorbed into the newly created Army Materiel Command and its subordinate Army Electronics Command in August 1962, in an Army reorganization.)

The 5-month nationwide investigation also produced indictments of the two engineers and a manufacturer's representative, and material for three other potential criminal cases. They are still pending before Federal grand juries in Newark, N.J., and Los Angeles, Calif.

Pieced together, these indictments, reports, memorandums, and added material in Justice Department files from related probes reveal a picture indicating that:

Honest employees at Fort Monmouth who suspected what was going on were held in line through manipulation of the personnel system, with rewards for those who kept their mouths shut and penalties for those who asked questions.

Some contracts were rigged for favored firms by using spurious technical excuses to knock out unwanted, low bidders. On other contracts, favored firms were permitted to win awards with unrealistically low bids, then jack their prices up later.

Gratuities to Army personnel were common and ranged from bribes to booze, from free female entertainment to free business trips, as one Justice Department official put it.

However, the Justice Department stresses, at every opportunity, that the deep-rooted corruption found at Fort Monmouth and elsewhere in the Signal Corps directly involves only a relatively small number of employees.

The Department's January close-out memos informed the materiel command—which had been holding off action while the FBI worked—that it could then feel free to move in with any needed administrative

action, particularly in 11 specific cases not strong enough to merit full prosecution.

Four months after receipt of the memos, there is a 180-degree difference of opinion—between the AMC and Fort Monmouth's commanding general—as to what, if anything, has been done as a direct result of the arrests, besides firing the engineers involved.

THREE MEN SEIZED FOR ALLEGED BRIBERY

The Daily News will disclose Tuesday the widespread changes quietly put through after the arrests—and the conditions that remain despite the arrests.

Seized July 12 outside a plush Shrewsbury (N.J.) restaurant, after bribes allegedly had been passed in marked money, were:

William Laverick, 49, a 21-year employee who headed the key production engineering department of Fort Monmouth's U.S. Army Signal Materiel Support Agency (USASIMSA).

Harrison Tryon, 48, with 17 years on the job, who headed USASIMSA's maintenance engineering division.

Malcolm Schaefer, 38, a former assistant to Laverick, who quit the corps to become a freelance manufacturer's agent.

They were charged with attempting to shake down a west coast businessman with the promise that he'd get a fat electronics contract if he paid off—or find his low bid disqualified if he didn't.

The businessman, Robert Snoyer, 38, president of the Consad Corp., Manhattan Beach, Calif., told his story to a reporter during a Daily News investigation of defense contracts, and agreed to cooperate with the FBI in breaking the case.

The defendants are now scheduled for trial June 10 in Federal District Court at Newark.

PROBE INVOLVES DOZENS OF AGENTS

Their arrests touched off a probe, involving dozens of agents, at the corps' contracting headquarters in Philadelphia, at Fort Monmouth, the source of all key technical evaluations controlling contract awards and prices, and Pasadena, Calif., then the site of a Signal Corps branch office.

The FBI found that Fort Monmouth's problems centered on a "tight little club," as one Justice Department procurement expert described it. "Members" were several high-ranking civilian officials and a group of favored contractors, mostly from small- and middle-sized firms.

The Signal Corps "club members" did not actually handle contract awards—they didn't have to.

Instead, they provided the crucial technical evaluations that played a key role in determining who would or would not get contracts and what the final price might be once an award was made.

The favored firms responded with a continuing string of gratuities often unrelated to specific contract actions—making their detection particularly difficult.

Here is how the club worked, in the view of the Justice Department:

Companies that were "in" got contracts—even if their capabilities were questionable. Those not "in" were disqualified, if possible, through engineering-staff recommendations saying the unwanted bidders lacked the technical plant facilities or engineering know-how to perform adequately. These recommendations were rarely questioned.

MAJOR CONTRACTORS ESCAPE JUGGLING

Major contractors—such as General Electric, Texas Instruments, General Dynamics, and firms of that caliber—obviously were immune to such maneuvering because of unquestioned competence, but many small businesses, which proliferate in the electronics field, found themselves unable to "crack the ice" at Fort Monmouth and Philadelphia.

Once an "in" company obtained a contract, "engineering changes" in the equipment could be proposed by the Fort Monmouth engineers, or "technical action requests" for changes could be sought by the contractor.

These changes supposedly would be costly and entitle the contractor to ask for—and get—more money out of the Government.

Purchase of spare parts for equipment under contract provided another area for manipulation.

Spare parts could frequently be ordered in quantities influenced primarily by the engineering judgment of Fort Monmouth's club members. The prices paid were often higher than the cost of the parts in the original equipment, guaranteeing more excess profits.

To help favored firms compete for contracts or perform once they were won, club members withdrew useful, or needed documents from one of Fort Monmouth's employees-only technical libraries and mailed them—by the boxload, if necessary—to the contractor.

On other occasions, club members who prepared the list of components to be used in equipment under procurement would specify a component made only by a favored firm. This guaranteed the firm the contract—or assured it of a fat subcontract from the prime manufacturer.

Another club agreement existed on subcontracts, the FBI found.

The involved engineers at Fort Monmouth would arrange a contract for one favored firm—then dictate another favored firm that was to receive key subcontracts.

Inevitably, word on the club's operations leaked out.

Contractors consistently cheated out of awards they appeared to deserve complained bitterly—but only within the industry, not publicly.

They feared that an official protest would land them on a blacklist of troublemakers that would freeze them out of all contracts with the Signal Corps and other Government agencies as well.

Fort Monmouth employees not in the club who noted the unusual procedures, acts of favoritism, and flow of gratuities, were held in line through abuse of the personnel system.

FBI agents found that most workers believed—from experience—that if they protested what they saw, they'd be shifted to other bases; transferred to dirty duty at Fort Monmouth; be ostracized in their office, receive poor vacation schedules and be subjected to other forms of retaliation.

Those who kept their mouths shut, or cooperated, received promotions, choice duty assignments, field trips—and sometimes even shared in the less valuable gratuities.

The arrests, however, broke the dam of pent-up frustration and outrage that had been mounting in dozens of employees for months and years.

FBI arrests embarking on the Fort Monmouth part of the investigation expected to handle the job in a few weeks.

MAJOR EFFORT REQUIRED OF FBI

Instead, the investigation required a major effort on the part of the FBI's Newark office, under special agent Ralph Bachman, and lasted for months.

As one agent put it, "It seemed as if everybody there had a story to tell.

"Of course, some of the complaints were just sour grapes," he conceded. "And some of them came from people with guilty consciences who were trying to show us they hadn't been a part of all this—when they actually had.

"But a lot of our dope came from people who had just been too afraid for their jobs to talk to anyone before—honest, hard working people, which is what 99 percent of them down there are," he declared.

The FBI also had two other main sources of information:

Intensive surveillance of the suspects and their conversations.

A lengthy, detailed description of the accused engineers' method of operation—supplied unwittingly by the suspects themselves during a 3-hour dinner that preceded their arrest.

The defendants didn't find out until the following day that the business partner that Snoyer had brought along to the payoff dinner—where the Monmouth engineers' mentioned other fixed contracts, other personnel involved and other companies helped—was an FBI agent with a blotter-like memory.

MONMOUTH CLEANUP LEAVES LOOSE ENDS—ARRESTS IN KICKBACKS FAIL TO CLOSE ALL THE LOOPHOLES

(By Charles Nicodemus)

WASHINGTON.—The Army has finally closed the door on corruption at this key communications facility, but it has left most of the windows unlocked.

That's the anomaly found by a reporter during a study of Signal Corps procurement 10 months after two of this base's top civilian engineers were arrested on charges of seeking to rig a $2,400,000 electronics contract for a $48,000 bribe.

That study reveals that the top officers and organizations that formerly ran Fort Monmouth have been quietly turned upside down in some ways—and have been left curiously untouched in others.

New faces dot the landscape at the top and dozens of regulations have been changed or tightened since the arrests, according to Lt. Gen. Frank R. Besson, Jr., in Washington.

He heads the Army Materiel Command (AMC), which absorbed virtually all of the corps' $650 million-a-year purchasing activities in an Army reorganization last August.

But the Daily News also found that:

A third, high-ranking civilian engineer, who escaped arrest by the FBI in the bribery plot only by accident, still fills the key job he held before the arrests last July 12. Besson says his case is still open.

Only a few of the changes have tightened loopholes in the specific regulations and procedure that the Department of Justice charges were perverted by the two accused fixers and their accomplice, a manufacturer's representative.

The accused engineers, William Laverick, 49, and Harrison Tryon, 48, had 38 years' service between them. The freelance manufacturer's agent, Malcolm Schaefer, 38, was a former assistant to Laverick. All are scheduled for trial June 10 in U.S. District Court at Newark, N.J.

What does the Army contend has been the total impact of their arrest, which shook the Signal Corps to its core 10 months ago?

Besson insists a "significant number" of the changes made at Fort Monmouth and elsewhere have resulted "in whole or in part" from the arrests and the massive FBI probe of Signal Corps contracting that followed.

Other changes made were merely the result of the reorganization, which saw virtually all Signal Corps procurement functions absorbed by the AMC's new electronics command, he said.

But Brig. Gen. Stuart S. Hoff, head of Fort Monmouth and the electronics command, told a visiting reporter:

"Candidly, I can't say that any change made here can be attributed directly to last year's arrests."

Hoff said he'd stick to that answer regardless of what anyone in Washington said.

And Col. Roman I. Ulans, head of Fort Monmouth's U.S. Army Electronics Materiel Support Agency (USAEMSA), said:

"The arrests were just like a death in the family. These were two of our top men and

everybody was stunned. But before long it was forgotten."

As for the impact of any tighter regulations stemming from the arrests, Ulans said "there has been no impact."

General Besson, informed of Hoff's statement, exploded with:

"My God, Hoff's all wet."

Asked how Gen. Hoff could make such a statement, after Besson for weeks had been outlining reforms supposedly instituted, Besson said—apparently in jest:

"I guess Hoff just hasn't gotten the word yet.

"For Pete's sake," Besson added, "I've been up there to inspect, myself. I know what's going on. And Hoff's been sending reports down here regularly, laying out the changes, chapter and verse."

And just what has been going on at Fort Monmouth and elsewhere in the old Signal Corps procurement setup?

Maj. Gen. Earle F. Cook took over as new chief signal officer in July 1962 with greatly curtailed responsibilities; General Hoff, former head of Signal Corps research and development, was put in as chief of the new electronics command and head of Fort Monmouth; Brig. Gen. Allen T. Stanwix-Hay was made head of the U.S. Army Electronics Material Agency in Philadelphia, the contracting headquarters, and Colonel Ulans was promoted to chief of the USAEMSA.

His key agency, where the arrested engineers worked, prepares contract specifications and makes the crucial technical decisions that help determine what bidders get contracts and what final contract prices will be.

This wholesale turnover of every top position in the old Signal Corps structure was merely coincidental, the Defense Department said, with the organization of the new AMC responsible for several of the changes.

A new director of civilian personnel also was recruited for Fort Monmouth.

General Besson said the director was brought "all the way from Alaska, so we'd be sure he would have no contact with any of the local cliques."

Manipulation of the civilian personnel system had been one way that the alleged fixers at Monmouth had been able to bend lower level employees to their will, the FBI found during its 5-month-long investigation that followed the arrests.

Employees who cooperated with the club of accused fixers and favored contractors were rewarded with promotions, field trips, time off and choice vacation schedules. Those who asked too many questions might be transferred out, refused promotion, assigned undesirable work, or winter vacations.

Under the new regime, Besson said, promotions under the Army merit system have increased 50 percent. Employee grievances have virtually disappeared.

Meaningful use of the system of individual efficiency reports—virtually ignored before the arrests, Besson said—was ordered resumed immediately.

Here are other key administrative measures Besson said have been taken since the arrests, to tighten up on purchasing:

Staff members supplying recommendations to contracting officers—the men who deal directly with manufacturers—must now provide full data backing up their recommendations, not just conclusions. This reduces the possibility of false, baseless recommendations, which permitted "fixes."

Once a technical evaluation has been made of a bidder's plant and personnel, no reevaluation can be made without approval from the top echelons.

This reduces the possibility that a contractor, turned down in one evaluation, might offer inducements to inspectors to get a favorable reevaluation, as the FBI found had been done on occasion.

Minor changes in equipment or method of manufacture, which the contractor might wish to make, can no longer be approved by engineering personnel, but must be okayed by the contracting officer.

This is just one of several directives aimed at cutting the independent power of the engineering staff, of which the arrested men were members, and centralizing contract control in the hands of the man with the ultimate responsibility.

Restrictions on taking outside jobs, with contractors and other firms, and on the receipt of outside income, were reemphasized.

What problems still exist at Fort Monmouth?

FBI testimony at a preliminary hearing in the bribery case last August disclosed that a third package of marked money was prepared for passing to at least one additional Fort Monmouth official on the night of the arrests—but was never used.

The Daily News learned that one high-ranking engineer it was intended for had to cancel out at the last minute from the payoff dinner that preceded the arrests, thus narrowly escaping apprehension.

General Besson said the AMC "cannot, at the moment, do anything about the man."

The intensive FBI investigation after the arrests also turned up repeated allegations that the man who had originally set up the alleged Fort Monmouth bribery ring had—long before the arrests—been transferred to an oversea assignment, where he is currently under investigation by the Justice Department for other purchasing irregularities.

Not until after the Daily News inquired about the man's status did Besson's office send reports on the Fort Monmouth investigation to the man's superiors overseas.

In another case, the Signal Corps turned over to the FBI, in January 1962, details of mass gratuities distributed by one contractor to Signal Corps employees at Fort Monmouth, Philadelphia, and Washington.

The Justice Department inadvertently failed to return the case for 15 months—finally sending it back to the Army for action in April 1963—and the Signal Corps (and later, the AMC) made no effort to resolve the matter with the Justice Department.

No attempt was made to retrieve the case even though the firm involved had a history of trouble, and had even been caught using a copy of an administratively secret Fort Monmouth procurement document during contract negotiations.

(The employee who the corps was certain leaked the document—one of the top engineers at Fort Monmouth's research and development lab—resigned just as the Signal Corps was preparing charges against him).

After the Daily News inquired about the gratuities case in late April, the AMC announced it is referring it immediately to a gratuities board that could fine the contractor, cancel his contracts, or bar him from defense procurement.

Also sent to the AMC for possible administrative action by the Department of Justice were 11 instances of alleged impropriety by Monmouth personnel, in which the FBI could not establish a criminal case.

General Besson said the Army inspector general, who already had checked out 10 of the cases, investigated again and dropped 7 of them because "no proof was available." Four others are still open, he said.

What about other loopholes that the Justice Department charges the accused fixers used to manipulate contracts?

1. No new controls have been set up over the use or withdrawal of materiel by employees from Monmouth's technical libraries.

The defendants are charged with obtaining quantities of such materiel and mailing it by the boxload to a favored firm to assist it in performing on a contract they sought to rig.

2. No new controls have been imposed on the purchase of spare parts for equipment under contract.

The FBI investigation established that the defendant engineers could boost the contract price paid favored firms by recommending purchase from the firms of more spare parts than were needed, at prices higher than the cost of the parts in the original equipment.

3. The power of civilian engineers—such as the men arrested—to recommend engineering changes in equipment under contract has been increased rather than decreased. These changes generally enable the contractor to ask for more money.

A new regulation requires that any time an engineer's suggestion for an engineering change is to be reversed, the superior overruling the recommendation must document his reasons as part of the permanent contract record—making supervisors reluctant to alter engineering recommendations.

4. No new controls have been set up to assure that contracts on which bids have been received will be awarded promptly. This can enable procurement officials to stall off a contract award until a low bidder withdraws an offer to seek other contracts, leaving a favored firm next in line.

Just such a maneuver touched off the Signal Corps contract investigation that led to the Fort Monmouth arrests.

Mr. Speaker, for 2 years I have brought to the attention of the House and the public case after case of defense procurement where apparent "blunders" by someone in authority have cost the taxpayers millions of dollars. I have laid out case after case of noncompetitive sole source procurements channeled to favored firms; cases where the service said there were no drawings to permit competition when, indeed, there were drawings; cases where a contract was hustled to a favored firm to meet an emergency that did not even exist; cases where it was adjudged that only one firm was competent enough to build a piece of equipment, when every manufacturer on the horizon could have done the job; cases where plans were supposedly classified, restricting competition to a few favored firms, when in reality the equipment was not classified and had been obtained under wide-open competition before.

One question threads its way through all the cases I have cited. It is simply this: "Why were all these so-called blunders made?"

Mr. Speaker, if you want to answer that for yourself, read the articles. There you will find it—chapter, page, and verse, just as the FBI and the Justice Department found it.

In the articles you will find rigged contract specifications, tailored to suit one manufacturer; rigged technical evaluations of plant and personnel by which unwanted low bidders are knocked out; engineering changes pushed through after award of a contract to jump the price; spare-parts deals where spares for an equipment are bought in huge quantities at fat prices to help make up profits a manufacturer sacrificed by bidding unrealistically low.

Here, too, you will find manipulation of Government personnel systems, whereby a handful of men in high places are able to wield vast power over a large number of subordinates through a "ter-

ror system" that rewarded those who kept their mouths shut and punished anyone who asked questions.

This sorry picture is what the FBI believes prevailed at Fort Monmouth, N.J. I wonder how many other procurement centers have the same sorry mess on their hands? How often would Fort Monmouth be repeated if the FBI moved into other areas on a massive scale as it did in New Jersey? With shocking frequency, I predict, if what I have been uncovering in the last 2 years is any indicator.

There is another lesson to be learned in these articles. It is what the Army has—and has not—done about the Monmouth mess. It is clear that while the brass here in Washington contend wonders have been worked in cleaning up the old system, the top men at Fort Monmouth have an altogether different view.

Changes and reforms have indeed been introduced, but just how many were directed at the problems uncovered by the FBI is not clear. Organization of the Army Materiel Command and its consequent takeover of Signal Corps' procurement, brought in many changes and new faces. The Army, traditionally reluctant to admit that it ever does anything wrong or makes changes as a result of outside criticism, would like to have you and me believe that all changes were made on its own initiative and not as a result of the "Monmouth mess."

Whatever the motivation for the changes to date, it is clear that much more needs to be done. There is no indication, however, that the Army intends to make these changes—unless prodded by Secretary of Defense McNamara or by Congress. There is even evidence—shocking evidence—that several fundamental steps dictated by commonsense were not taken until someone started asking questions—the someone in this case, Mr. Charles Nicodemus, the Chicago Daily News reporter who has done an outstanding job in defense-contracting reporting.

The Department of Justice and the FBI have performed a rare, outstanding service by stepping into a procurement facility and laying it bare, exposing the small but powerful core of rot and corruption that was eating away at the vitals of the installation—and devouring tax dollars appropriated by Congress.

Because of this fine work, because of the courage of a contractor who talked to the FBI, because of the Chicago Daily News efforts, three men will soon go on trial. Their innocence or guilt will be decided by a jury of their fellow men but this should not be the end of the Monmouth mess.

The conditions found at Monmouth are so shocking and their implications so profound that I believe it is incumbent upon Congress to examine this situation closely. We in Congress must enact legislation to guarantee that what happened at Fort Monmouth once does not happen again—at Monmouth or anyplace else.

I suggest that upon the conclusion of the Fort Monmouth conspiracy trials, an appropriate committee of Congress should dig into the entire Monmouth mess to determine what happened, how it happened, why it happened, who was responsible, what has been done about it, and what remains to be done to make sure it does not happen again.

I have introduced legislation in the House, and there is similar legislation in the other body, which I believe will go part of the way toward making sure the Monmouth mess is not repeated. My bill would set up a blue-ribbon, joint congressional watchdog committee to maintain continued surveillance over negotiated defense and space contracts. With this legislation, which I hope to have considered in this session of Congress, we representatives of the people will have a strong tool to unearth and correct problems such as the Monmouth mess. At this moment, no committee or agency of Congress nor of the executive branch, is specifically assigned to this task. Since we are spending over half of our national tax money on defense, I believe it is time we started riding herd on it on a daily basis with detailed inspections, questions and fact-finding sessions.

It is imperative that such a committee as I have designed be formed to make sure that no more messes like Monmouth arise to blacken the record of the military and blacken the eyes of the taxpayer.

ATTACKS UPON THE PRESIDENT

Mr. HAYS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.

Mr. HAYS. Mr. Speaker, as I came into the Chamber today I heard the gentleman from Texas [Mr. ALGER] make one of his almost daily attacks on the President. In this instance he charged the President with withholding information about Cuba, something I think is not true and that the President is not doing, and I just thought it would be appropriate to point out that although the gentleman from Texas [Mr. ALGER] is able to get this statement in the RECORD and then months later quote the CONGRESSIONAL RECORD of such-and-such a date saying that the President was withholding information, this does not necessarily make it so.

THE SUGAR SITUATION

Mr. BERRY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.

Mr. BERRY. Mr. Speaker, the American housewife is getting a "sweet" lesson in what it means to depend upon international trade for her foodstuffs.

The price of sugar has doubled and trebled in the last few weeks and the price of canned fruits and all foods containing sugar must certainly follow shortly. I have long fought against American dependence upon international trade for our agricultural products and supply of food and fiber and I believe this is only another example of what "international dealing" will do to the American market when the internationalists have us at their mercy.

Instead of permitting the American farmer and American sugar industry to supply the domestic market, we first established by law a sugar quota to Cuba equal to 50 percent of the domestic consumption. Then, when Cuba went behind the Iron Curtain we divided that quota among almost every other sugar producing nation in the world. Now we are at the mercy of the world trade and the housewife is paying the bill.

There is no world sugar shortage, but the world sugar interests are putting the squeeze on us to get a better price for their product. You cannot blame them. If we are willing to take production from the American farmer and the American sugar industry and spread it out all over the world, we deserve to get caught in this kind of a squeeze.

The American farmer is screaming for an opportunity to produce something on his acres but instead the Government squeezes down his allotments, rents his acres to take them out of production, and calls this whole stupid process "a subsidy to the farmer."

Beef imports have jumped to 10 percent of the domestic consumption, lamb and pork are only a short way behind. The Secretary of Agriculture wants complete regulation over all agricultural commodities so he can further open our markets to foreign food production.

Sugar is only a taste of what is in store for the American farmer and the American consumer if planned production and planned food supplies are to be the future national policy.

MEXICAN FARM LABOR

Mr. ROSENTHAL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.

Mr. ROSENTHAL. Mr. Speaker, I should like to call to the attention of my colleagues what I consider to be four good reasons for voting against H.R. 5497 when it comes to the floor on Wednesday of this week. This bill would extend Public Law 78, which authorizes importation of farmworkers into the United States from Mexico for the benefit of a very few farms in certain States.

The first reason for voting against this bill is the high and continuing unemployment in the United States. Why should Congress authorize importation of nearly a quarter million foreign workers when

rural unemployment is over 7 percent, and American farmworkers are able to earn only about $1,000 per year and can find only about 156 days of work in a year?

The second reason that this is a bad bill is that it would benefit only about 1 percent of the farms—mostly big, corporate operations—and harm many, many family farms that are struggling to survive.

Next, Mr. Speaker, this is an antilabor bill. Farmworkers are not protected by the Fair Labor Standards Act, and very few are benefited by workmen's compensation or unemployment insurance. The Mexican labor import program prevents the free market from determining farm wages by artificially depressing wage rates.

The final reason for defeating H.R. 5497 and wiping Public Law 78 off the books is that representatives of all three major religious faiths oppose its continuation. They call this program immoral, and so do I.

PROVIDING FOR THE REORGANIZATION OF CERTAIN FUNCTIONS RELATING TO THE FRANKLIN D. ROOSEVELT LIBRARY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 117)

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 Government Operations and ordered to be printed:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1963, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for the reorganization of certain functions relating to the Franklin D. Roosevelt Library.

The library project was built under authority of the joint resolution of July 18, 1939. It is located on a site in the town of Hyde Park, Dutchess County, N.Y., donated by the late Franklin D. Roosevelt. The library contains historical material donated by him, and other related historical material.

At the present time responsibility for the library is divided as follows:

(1) The Secretary of the Interior is responsible for the care, maintenance, and protection of the buildings and grounds of the library and for the collection of fees for the privilege of visiting and viewing the exhibit rooms or museum portion of the library, exclusive, however, of the function of fixing the amounts of fees charged.

(2) Responsibility for the contents and professional services of the library, and all other responsibility for the library except as indicated above, are vested in the Administrator of General Services.

When the transfer of functions with respect to the Franklin D. Roosevelt Library from the Secretary of the Interior to the Administrator of General Services, as provided for in the reorganization plan transmitted herewith, becomes effective, the Administrator will have complete responsibility for the library, including its buildings, grounds, contents, and services.

Three other Presidential libraries are now entirely under the jurisdiction of the Administrator of General Services (in pursuance of section 507(g) of the Federal Property and Administrative Services Act of 1949, as amended): the Harry S. Truman Library at Independence, Mo., the Herbert Hoover Library at West Branch, Iowa, and the Dwight D. Eisenhower Library at Abilene, Kans. The taking effect of the provisions of the accompanying reorganization plan will place the administration of the Franklin D. Roosevelt Library fully on a common footing with the administration of these three other Presidential libraries.

I am persuaded that the present division of responsibility between the Secretary of the Interior and the Administrator of General Services is not conducive to the most efficient administration of the Franklin D. Roosevelt Library. Reorganization Plan No. 1 of 1963 will apply to this library the preferable pattern of organization existing with respect to other Presidential libraries.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1963 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

The taking effect of reorganizations included in the reorganization plan will provide improved organizational arrangements with respect to the administration of the Franklin D. Roosevelt Library. While such arrangements will further the convenient and efficient carrying out of the purposes of the library, it is impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by such taking effect.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

THE WHITE HOUSE, *May 27, 1963.*

THE LATE WILLIAM BALLINGER

Mr. LIBONATI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.

Mr. LIBONATI. Mr. Speaker, in the sweet memory of time no one served this body with greater loyalty than William Ballinger, our Assistant Sergeant at Arms since 1956. As bearer of the mace the honor of his official duties were conducted with dignity and the precision of time-honored tradition of this body.

He was a veteran of World War I, serving later—in 1935—in various capacities at the Capitol. He also served as a deputy marshal in the District of Columbia for several years in the early fifties.

Of late he had complained of feeling ill although last year he fully recovered from a serious illness.

The House has lost a dedicated servant of its membership whose love of country and protection of its leaders were his life's dedication.

We will miss his genial manner and serious demeanor which added to the prestige of the House and contributed to the decorum of its sittings.

To his loving daughter Mrs. Euline M. Lutes, of Escondido, Calif., we extend our heartfelt condolences.

TFX AIRCRAFT CONTROVERSY

The SPEAKER. Under previous order of the House, the gentleman from Iowa [Mr. GROSS] is recognized for 20 minutes.

Mr. GROSS. Mr. Speaker, I desire to bring to the attention of the House of Representatives certain facts concerning the role Deputy Defense Secretary Roswell Gilpatric has played in the TFX aircraft controversy.

I do this for the reason that the greatest number of citizens and taxpayers of this country ought to be made aware of at least some of the unpalatable maneuverings in connection with this $6.5 billion contract award.

In the first place, Gilpatric, in October 1957, brought the General Dynamics business to the law firm of Cravath, Swaine, and Moore because of his relations with Mr. Frank Pace, then head of General Dynamics.

In 1958, 1959, and 1960, Gilpatric was a counsel in the law firm of Cravath, Swaine, and Moore. As such, he handled most of the General Dynamics business. For his convenience, an office was made available to him in the General Dynamics offices.

Among other things, Gilpatric's work during that period involved a major merger problem bringing together General Dynamics and Material Services Corp., the latter firm being headed by Henry Crown, Chicago financier. This vital merger was for the purposes of bringing new money into General Dynamics, and Crown thus became a major figure in the change in top management of the merged corporations.

In January 1961 Gilpatric accepted appointment as Deputy Defense Secretary and "arranged" to turn the General Dynamics account over to Mr. M. T. Moore, of the firm of Cravath, Swaine, and Moore. Mr. Moore served as the counsel for a small committee, the chairman of which was Henry Crown, to name a new head for General Dynamics. The committee dropped Mr. Frank Pace and selected Mr. Roger Lewis, now president of General Dynamics.

As this stage was being set, it becomes increasingly clear that the award of the TFX fighter plane contract, involving $6.5 billion, was highly essential to the future prosperity of the General Dynamics firm. And it becomes just as clear that Gilpatric did not disqualify himself from decisions in connection with that huge contract. As a matter of fact, it becomes equally clear that Gilpatric, as Deputy Defense Secretary, wrote many letters and held many con-

ferences on that subject with Defense Secretary McNamara and others.

In early November of 1962, the Pentagon Source Selection Board made a unanimous recommendation for the Boeing version of the TFX fighter plane. This was based on a proposed price that was more than $100 million less than the General Dynamics version, and a performance evaluation which indicated the Boeing plane was clearly superior to that proposed by General Dynamics.

It is of the utmost significance that this decision was concurred in by Gen. Curtis LeMay, Chief of the Air Force, and Adm. George Anderson, Chief of Naval Operations, the two branches of the Armed Forces most directly and vitally affected, since these services were to be equipped with this new fighter plane.

Late in that same month of November 1962, Defense Secretary McNamara overruled the decision of the Source Selection Board, and announced award of the first phase of the contract to General Dynamics.

The next development came quickly. A preliminary investigation by the McClellan committee disclosed errors in the November 21, 1962, memorandum of alleged justification by which McNamara overruled the recommendation for Boeing. On the basis of these errors, Chairman JOHN L. MCCLELLAN asked the Defense Department to hold up the formal signing of a contract with General Dynamics.

It is significant to point out at this juncture that on December 20, 1962, Attorney Moore, of the law firm of Cravath, Swaine, and Moore, was named a member of the board of directors of General Dynamics.

On December 26, 1962, Gilpatric wrote to Senator MCCLELLAN stating that the Defense Department would not delay the signing of a TFX contract with General Dynamics pending a full investigation by the McClellan committee.

On March 21, 1963, a Member of the Senate made a speech in which he indicated there could be no "conflict of interest" on the part of Gilpatric in the award of the TFX contract. He told the Senate that Gilpatric had served as an adviser for both Boeing and General Dynamics.

But in May 1963, William Allen, president of Boeing, testified under oath before the McClellan committee and asserted that Gilpatric had never served as a lawyer or adviser for Boeing. Allen said Gilpatric had been subpenaed on one occasion as a witness for Boeing. He received travel expenses but no fee whatever.

On May 9, 1963, Roger Harris, vice president and general counsel for General Dynamics, also testified under oath before the McClellan committee and stated that Gilpatric had performed services for General Dynamics in 1958, 1959, and 1960; that Gilpatric "arranged" to turn this business over to Attorney Moore in January 1961. Harris said that General Dynamics had paid, or had been billed for, fees of $300,000 by the firm of Cravath, Swaine, and Moore in the period of 1958 through the first quarter of 1963.

Thus it is indisputable that Gilpatric was associated with a law firm which collected a very substantial fee from a corporation which, as matters now stand, will profit from a $6.5 billion contract—one of the largest single contracts ever awarded by the U.S. Government in peacetime.

In the light of the foregoing, the only way that Gilpatric could clear his skirts of interest and prejudice in favor of General Dynamics, his erstwhile client, would have been to publicly divorce himself of any activity in connection with the contract or resign as Deputy Defense Secretary. Instead, he has admitted that he was probably the source of a series of stories printed in March 1963 that were critical of the McClellan committee investigations. These stories originated at a so-called press briefing and reporters were told to credit them to an unnamed high official in the Pentagon. When first questioned by Senator MCCLELLAN about the source of these stories, Gilpatric denied that he knew the source.

And through it all the role of Defense Secretary McNamara is incredible.

One of the most recent witnesses to appear before the McClellan committee was Comptroller General Joseph Campbell and top members of his staff in the General Accounting Office. Mr. Campbell had been requested by Senator MCCLELLAN to review the cost figures relating to the Boeing bid for production of the TFX fighter plane.

The Comptroller General and members of his staff testified under oath that although they spent an hour with Defense Secretary McNamara in his office in the Pentagon, they were unable to obtain any detailed figure.

They testified that the cost figures upon which the decision was based to give the huge contract to General Dynamics were either in McNamara's head or simply did not exist. They told Senator MCCLELLAN it was impossible to audit figures in someone's head.

In a further effort to provide the Senate Investigating Committee with the cost figures, Comptroller General Campbell sent a team of accountants to Wright-Patterson Air Base at Dayton, Ohio. Here again they found themselves in a dead end street and returned to Washington empty handed. An impenetrable curtain of information and documentation had been drawn by Defense Secretary McNamara or those associated with him.

And a curtain has apparently been drawn on the distinguished naval career of Adm. George W. Anderson who, when summoned to testify before the McClellan committee, forcefully stated his opposition to the TFX contract award to General Dynamics. McNamara promptly announced that Admiral Anderson would not be reappointed as Chief of Naval Operations. At the same time it was announced that General LeMay, Chief of the Air Force, who also testified in opposition to McNamara's TFX project, was given a 1-year extension—in other words he was put on probation for a year by the self-annointed czar in the Pentagon.

Although he joined in the torpedoing of Admiral Anderson, President Kennedy had the effrontery to issue a public statement saying that "he—Admiral Anderson—had served with great distinction during a critical period in the Nation's history."

Having joined in casting a stigma on the career of one of the Nation's top military leaders, the President resorts to a laudatory statement to gloss over a policy of waste instead of efficiency and saving.

Meantime, General Dynamics, preparing to move on the TFX contract, has sent out letters to suppliers and subcontractors throughout the Nation asking them to designate, among other things, the congressional districts in which their plants are located.

Why should General Dynamics, in the distribution of hundreds of millions of dollars in subcontracts, want to know or need to know anything about congressional districts? It ought to be interested only in the ability of a supplier or subcontractor to provide a quality product at a proper price.

Is there involved in the production of this new and enormously expensive fighter plane for the Air Force and Navy—a plane upon which the fate of this Nation may rest—a political gimmick?

Why, I ask again, should General Dynamics, Defense Secretary McNamara, President Kennedy, or anyone else be interested in the congressional district in which a potential supplier or subcontractor is located? This smacks of conflict of interest and it has overtones of political reward.

Why, I also ask, are the taxpayers, their representatives in Congress, and the General Accounting Office not entitled to every scrap of documentation that went into this contract award? Why must they be asked to accept figures, if any, that are being carried around in the head of some individual? This is bad government at best.

Mr. Speaker, the manipulations and maneuverings that have taken place in connection with this huge contract award have not been properly explained to those who are interested in obtaining the facts. I urge the McClellan committee to continue to use every power at its command to expeditiously force into the open the pertinent information that has been denied.

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

Mr. GROSS. I yield to the gentleman.

Mr. STINSON. I would like to congratulate the gentleman from Iowa for bringing this information concerning Roswell Gilpatric before the House. I have been interested in the subject of the TFX for quite some time, especially since the Boeing Co. is in my congressional district.

We have recently learned that one of the vice presidents of the Grumman Co., the other major recipient of the TFX contract has openly solicited under their letterhead, donations for the Democrat Party in their area in Long Island. I just wondered if there is a possibility that the General Dynamics Co. is now

going to be soliciting funds for a political party in the various congressional districts where these subcontractors are located and that this is the reason for this survey? Does the gentleman from Iowa have any information on this possibility?

Mr. GROSS. I have no knowledge of what General Dynamics will do with respect to further engaging in politics. I only want to deal with the facts. I carry no torch for Boeing or for General Dynamics. I want the facts and the American people are entitled to the facts.

Mr. STINSON. I realize that neither of these contractors are in your congressional district.

Mr. GROSS. That is correct.

Mr. STINSON. I think you have done an excellent job in bringing us up to date on this matter.

Mr. GROSS. I thank the gentleman.

The SPEAKER. The time of the gentleman has expired.

ESTABLISHING NATIONAL ADVISORY COUNCIL ON EDUCATION

The SPEAKER. Under previous order of the House, the gentleman from New York [Mr. LINDSAY] is recognized for 60 minutes.

Mr. LINDSAY. Mr. Speaker, I am today introducing a bill to establish a National Advisory Council on Education. In so doing I am delighted that I am being joined by my distinguished colleagues, the gentlewoman from Oregon [Mrs. GREEN] who is chairman of the Special Subcommittee on Education of the House Committee on Education and Labor, the gentleman from Massachusetts [Mr. MORSE], and the gentleman from Connecticut [Mr. GIAIMO]. Each of these Members has today introduced identical bills.

The purpose of the bill is to elevate the status of education in America. By creating a permanent, high-level council which can help bridge the gap between what we know and what we need to accomplish we can improve the quality of our education, bolster its national prestige and instill in the country a sense of urgency on this subject which is sadly lacking today.

The subject of the Federal role in education has become a source of bewilderment and dismay to the American people. It has been caught up in a series of political and religious crossfires which have divided the Nation, and confused by a plethora of proposals that have compounded the problem of establishing meaningful priorities in the field.

More than ever before there is a compelling national need to translate the educational requirements so well charted by so many of our leading thinkers into intelligent and practical programs of action. We need to know what kind of educational programs are most vital to the welfare of America and most essential at this time.

When the American people are confronted with programs on the Federal level for: college aid, impacted areas, extension of the National Defense Education Act, public schools—construction and teachers' salaries—private and parochial schools, youth employment, vocational training, medical and nursing schools, adult illiteracy, quality education, exceptional children, technical education, school libraries, school lunches and a number of others, they might well ask—which of these programs is most needed? Which are of highest national significance? What kind of priorities should be established?

I am sure that we have all noted with approval the success over the years of the President's Science Advisory Committee. The chief reason that the Committee made such a remarkable contribution in the advancement of science and technology in the United States was that it had behind it the status and prestige of the President's office. Later, the Congress transformed it into a permanent Office of Science and Technology, the Congress thereby demonstrating its approval of the Committee's achievements.

Mr. Speaker, we urgently need a council at the Presidential level in the field of education. The subject needs to be elevated in the public mind. It needs to be pulled out of the morass it is in. It is time for a pulling together and a reassessment of where we stand on the subject of education.

The National Advisory Council which would be created by this bill would have a number of special and important functions.

First, it would provide a permanent advisory body of distinguished educators readily available to the President for consultation on means of improving education in the United States. Second, it would focus public attention on the basic need for high standards in education and on the relation of education to all other areas of human endeavor. Third, it would establish areas of priority in education.

The bill provides that the Council will be composed of 13 members appointed by the President and two ex-officio members—the Secretary of Health, Education, and Welfare, and the Commissioner of Education—making a total of 15 members. The members should have a recognized interest in education and should represent varying points of view. Six members shall be from the field of education and seven from the community at large with due regard for representation of different geographical areas of the Nation and business, labor, and professional life. The President designates the Chairman. Each of the 13 Presidentially appointed members shall hold office for a term of 4 years. Five terms of office expire at the close of the second calendar year after the enactment of the act, five at the close of the third, and three at the close of the fourth. The members of the Council will serve without compensation except for travel expenses. The Council shall meet at the call of the President but no less than twice a year.

The bill provides that the Council shall make an annual assessment of the goals, progress, and deficiencies of education in the United States and submit its findings to the President and the Congress. It would recommend legislative proposals to the President that represent the best thinking of leaders in the field. To assist in efforts to improve the quality of American education, it would propose programs of action that can and should be taken by the States. It would act as a high-level center of consultation and communication with Governors, the chief officials of State and local education agencies and heads of institutions of higher learning throughout the country.

The Council will be available as a national sounding board to assist in and coordinate efforts to improve the quality and content of curriculums; to raise standards of scholarship; to formulate means of advancing specially gifted students and to improve the quality of teaching. The Council should be of vital assistance in helping to mobilize community and local efforts to strengthen educational institutions. Through the prestige of the President it should keep public attention focused on the need for improving education in the Nation.

Finally, the Council would be empowered to undertake independent studies which will assist it in discharging its functions. It would be required to transmit to the President, the Secretary of Health, Education, and Welfare, the U.S. Commissioner of Education, the Congress and the American people an annual report of its activities.

We need only look around us and observe the bickering that has accompanied the introduction of each bill on the subject of education to realize the depths of uncertainty that surround the problems of education in the United States today. Our Nation's failure to fix priorities can only mean that we are unable to see clearly what they are.

The evidence for the creation of a National Advisory Council on Education at the Presidential level is overwhelming. The need is urgent and unmistakable. The whole country would greatly benefit from its existence.

I hope that Members of the House will give careful and thoughtful study to this proposal so that it may be acted upon before the close of the 88th Congress.

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

Mr. LINDSAY. I will be delighted to yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Speaker, I thank the gentleman from New York.

Mr. Speaker, President Kennedy has said "No task before our Nation is more important than expanding and improving the educational opportunities of all our people." The establishment of a National Advisory Council on Education would do much to focus public attention on the basic needs for higher standards of education, and on the relation of education to all other areas of human endeavor and national progress.

Therefore, I am particularly pleased to have the opportunity to join the distinguished gentleman from New York [Mr. LINDSAY] in introducing this legislation today. I congratulate him on the leadership that he has shown and I am also pleased that it has bipartisan support, including sponsorship by Congressman GIAIMO, of Connecticut, and Congressman MORSE, of Massachusetts. In

the Washington Star of December 6, 1959, a very provocative article was written entitled "Need Is for More Prestige—A Council on Education." George Oakes, one of the best informed writers in the education field, was the author of that article. And because of its importance I would like to include it at this point because 4 years later the problems he describes are not solved—but if anything more serious and their solution is even more urgent:

[From the Washington Evening Star, December 6, 1962]

NEED IS FOR MORE PRESTIGE—A COUNCIL ON EDUCATION?

(By George W. Oaks)

Since the passage of the National Defense Education Act in September 1958—a measure designed for specific purposes—broader education legislation has foundered on the rocks of economy, segregation and religion, encouraged by public apathy and some confused thinking.

Yet the problem remains and the basic facts are well known.

A public school enrollment of 36 million children, rising 4 percent a year.

One hundred thirty-five thousand too few classrooms.

Too few qualified teachers serving on too low a pay scale ($4,500 a year average).

In the prevailing public attitude, which Dr. James Bryant Conant describes as lacking a "sense of urgency," many educators believe that the President could take a step that might help bridge the gap between what is being done and what most authorities agree is required.

New York Commissioner of Education James E. Allen, Jr., and Senator JOHN SHERMAN COOPER, Republican, of Kentucky, have proposed recently the creation by the President of a permanent National Advisory Council on Education, somewhat similar in character to the Council of Economic Advisers. Many leaders in education consider that such a top Government group could spur us to raise our national sights on education. Senator COOPER makes the point that this device might make us move faster to translate our national educational requirements—economic, defense and cultural—into action in local school operations.

CONTINUING IMPETUS NEEDED

Although there have been many temporary Presidential committees in recent years which have made significant studies and recommendations, no permanent council of educators and leading citizens exists to give continuing high-level impetus, guidance and direction to a vigorous national educational effort in order to put these ideas into effect.

The addition of another permanent Presidential council to the ever-growing Federal bureaucracy would be justified, in the opinion of its proponents, by the following unique functions it would perform:

1. It would make an annual assessment of the goals, progress, and deficiencies of education in the United States—in our public and private schools, colleges, and universities. Its findings would be submitted to the President and Congress and would be published. For example, it might point out the need to maintain a balanced curriculum in the schools by emphasizing the importance of the humanities as well as increasing study of the sciences. Or it might stress the view held by top educators that raising the level of teaching may be even more essential than the addition of more classrooms.

2. The Council would recommend to the President legislative proposals to be enacted by Congress.

3. The Council would also propose action that could be taken by the States in order to carry out its general recommendations.

4. The Council would act as a high-level body to coordinate all Federal departments and agencies concerned with education.

5. Finally, the Council would utilize the prestige of the White House to keep public attention focused on improving our educational system as an urgent national problem. Leading educational organizations, as well as Government officials, feel the need for national leadership to stimulate public awareness of our educational deficiencies.

ANOTHER GROUP IS AUTHORIZED

Legislation enacted in 1954 authorizes the Secretary of Health, Education, and Welfare to appoint an Education Advisory Committee. There are reports that Secretary Flemming may do so soon. However, such a committee could not command the respect and attention even within the Government itself or throughout the country that would be shown a higher level Presidential Council on Education.

Both Commissioner Allen and Senator COOPER would oppose the establishment of a national curriculum or administrative control over education. But the Senator would expect the Council to work with State and local education officials to raise academic standards and the quality of teaching. In fact, the Council could encourage State education officials to prepare a number of specific plans to improve the curriculum which might stimulate changes by local school boards.

Such a Council would require a membership of 12 to 15, perhaps two-thirds leading citizens with recognized cultural interests representing varying points of view and the remainder educational statesmen like Dr. Conant.

To be effective it is essential that the President be sincerely committed to the principle of a top level group selected not for political reasons but on the basis of understanding of our educational requirements. A Council determined to provide national leadership with genuine White House support could attract the highest caliber membership. It could exert an influence not only on administration policy but on education activities of Government departments and agencies much more successfully than a departmental committee.

WHITE HOUSE GROUP FAVORED

For some time the American Council on Education has favored a White House group that would advise the President on all levels of education. Annual Federal expenditures on higher education alone now run around $2 billion and affect more than 20 departments and agencies. Some observers claim that there is little coordination among these programs and there is now no Federal agency capable of achieving coordination of policies and procedures. Education is somewhat submerged in the Department of Health, Education, and Welfare because the great preponderance of personnel and funds are devoted to its other two activities.

Some proponents of a national advisory council are convinced that its functions would expand as Federal involvement in our educational system increase. They would favor a National Board of Education with supervision over the Office of Education and power to appoint the Commissioner of Education, somewhat similar to the board of regents in New York State.

In any case it might be desirable to place the Office of Education under the Council in order to avoid administrative confusion and to provide necessary staff support.

Although the Office has gained status in recent years and has attracted higher caliber personnel, especially since it was given responsibility for the National Defense Education Act a year ago, it does not rank with an independent agency like the National Science Foundation, also deeply engaged in scientific education. In addition, it is worth noting that its top pay scale is lower than the education departments of several States or even large cities.

Congressman LINDSAY has already outlined the provisions in this bill. He has mentioned several pieces of legislation and has pointed out the desirability of establishing priorities. May I also suggest that in the space age, when so much of the national budget goes to military hardware and the man-on-the-moon project, that it is highly desirable not only to establish the priorities within the field of education but also to clearly establish the priority of education in the national scheme of things. With very little debate this Congress is willing to appropriate more than $50 billion for national defense and around $5 billion for the space program. And yet the success in both of these areas is dependent upon the extent and the quality of our education program in this country. Dr. James Van Allen, of the University of Iowa, has said that our accomplishments in outer space already exceed our scientific competence. Representatives of the National Aeronautics and Space Agency have told our committee that they will need thousands of additional scientists and engineers on the man-on-the-moon project alone. Dr. Terman, the vice president of Stanford University and a member of the President's Panel on Scientific Manpower Needs, has told our committee that there exists a critical shortage of manpower in the engineering, mathematical and physical sciences. He went on to say:

A manpower shortage exists in the EMP—engineering, mathematical and physical sciences—areas at all levels—bachelor, masters and doctor's degree but is the greatest the higher the level of training. The Space program alone could absorb the entire EMP output of the Nation's universities and colleges during the next few years, with nothing left over to take care of the needs for (a) defense, (b) civil economy and (c) more teachers to handle growing college enrollments.

One of the guiding principles of this administration is that expenditures for education represent an investment in human capital and are a primary factor in economic growth and national security.

Again quoting President Kennedy:

This Nation is committed to greater investment in economic growth; and recent research has shown that one of the most beneficial of all such investments is education, accounting for some 40 percent of the Nation's growth and productivity in recent years.

It is an investment which yields a substantial return in the higher wages and purchasing power of trained workers, in the new products and techniques which come from skilled minds and in the constant expansion of the Nation's storehouse of useful knowledge.

We must prepare our young people not only for the 20th century, but for the 21st century in which they will live most of their lives. And we must give them the kind of an education that will help them find answers to questions which we cannot even imagine today.

President Eisenhower—even before the first sputnik—said:

Our schools are more important than our Nike batteries, more necessary than our radar warning sets, and more powerful than the energy of the sun.

President Kennedy has said:

Our progress as a nation can be no swifter than our progress in education * * * education is at the same time the most profitable investment society can make and the richest reward it can confer.

In another message to the Congress, the President said that a free nation can rise no higher than the standard of excellence set in its schools and colleges. The question can well be asked: "With such national leadership and such bipartisan support why have we failed to make the progress that is so urgently called for?" Secretary Celebrezze of the Department of Health, Education, and Welfare has talked about the million students who drop out of our high schools each year. He has told of the 23 million adults who lead restricted lives because they have less than an elementary education. He has talked of the forced idleness and dependence of able men and women whose skills have been displaced. In this regard, President Kennedy has very poignantly said:

Ignorance and illiteracy, unskilled workers and school dropouts—these and other failures of our education system breed failures in our social and economic system: unemployment, chronic dependency, a waste of human resources, a loss of productive power and purchasing power—and an increase in tax-supported benefits. * * * The loss of only 1 year's income due to unemployment is more than the total cost of 12 years of education through high school.

In addition to the million dropouts from our high schools, and the adults who have less than a basic education, there are somewhere between 60,000 and 100,000 academically talented high school graduates who do not go on to college each year because of financial need. There have been several State studies and one national study in this regard. I am talking here about extremely capable students—students who have IQ's of 120 or above— students who are properly motivated and have maintained good academic records throughout their high school years. And these studies indicate that these 60,000 to 100,000 students are not now going on to college largely because of financial need. This is a loss that this Nation cannot afford. Someone has said "10 struggling mediocrities do not replace 1 talented individual." And a former President of the University of Wisconsin has stated the case very well:

A nation that spends four times as much on legalized gambling as on higher education can afford to gamble on every young person who has the ability and wants a higher education.

So, on one side of the national ledger we have a tremendous shortage of teachers, scientists, engineers, ministers, social workers, doctors, and nurses. And on the other side of the national ledger we have this reservoir of unemployed, and by and large unemployable, people because they do not have the education or the training or the skills needed in an age of automation. And apparently, as a matter of national policy, we are willing to pay unemployment compensation benefits, and this Congress has indicated its willingness to pay the costs of manpower retraining, but as yet we have not been willing to give the financial assistance to enable these thousands of students to secure the original training.

We are engaged, whether we like it or not, in a race to the moon. And we are engaged, whether we like it or not, in a competition with the Communist world. Dr. Terman, the vice president of Stanford University and a Member of the President's Committee on Science and Technology, has said:

The events of the next several decades will probably determine what kind of a world is going to exist for the next 100, or 500, or even a thousand years, just as did the struggle between Rome and Carthage.

Russia came out of World War II with a military technology that was relatively primitive but with an obsession to dominate the world. The Russian leaders recognized that to gain world domination they must achieve supremacy in the technologies contributing to military strength, including space.

In the postwar years, the entire educational system in Russian, from elementary school through high school and university, was reorganized and coordinated in a deliberate, coldblooded, calculated way to produce the engineers and scientists required to maximize Russia's technological strength. It is this planned aggressive program, sustained over a long period of time, that is responsible for there being so many engineering and science graduates in Russia today.

The Russians' success during the past 18 years in improving their position in technology has been frightening. At the end of World War II their electronics was primitive, their airplanes were simple-minded, and they had not even started work on the atomic bomb. Today Russia has sophisticated electronics, such as multibeam microwave radar, it has solid state devices, and large computers. Russia has first-class jet airplanes, and hydrogen and atomic bombs. Russia's ballistic missiles for military and space have reached each new level of achievement both sooner and with bigger payloads than have our missiles.

Although the United States is still ahead in the overall picture, the overwhelming technological gap that existed in 1945 between the defense technology of the United States and that of Russia has been greatly reduced. It could entirely disappear in another 10 or 20 years. It is significant in this connection that the number of engineers and scientists in the Russian labor force is already significantly greater than the number of scientists and engineers in the labor force of the United States, and this superiority will increase with the passage of time.

There is no reason for complacency in this situation.

It seems to me that Dr. Terman also gives additional reason for the establishment of a National Advisory Council on Education when he continues in his speech:

The present danger to the United States arises from the fact that Russia has a clearly defined goal that it is determined to achieve (its priorities have been established) and from the fact that Russia has for many years had a program for action in effect for developing the manpower required to achieve this goal. In contrast, the efforts we have made to date to strengthen our manpower position in technology and the physical sciences are uncoordinated, lack vigor, and are left largely to chance. If this situation continues, Russia will probably be on top within another one or two decades, at least in military technologies.

It seems to me there is no question about the absolute necessity of making a greater effort in education if we are to maintain our position as the leader of the free world. But if I may enter a word of caution. I hope that in our race to the moon and in all of the programs that place so much emphasis on science and technology that we do not neglect the humanities. We seem today as a nation more willing to accommodate ourselves to the thought of dying together than a willingness to spend the time and the money and the effort that is needed to work out the problems of living together on this planet. We need the Wernher von Brauns, the Van Allens and the Major Coopers but we also need and need desperately the Tom Dooleys and the Albert Schweitzers, and the Frances Kelseys. We must not only build pathways to the stars but bridges of understanding on this earth.

As has been mentioned earlier, we do have the President's Advisory Committee on Science and Technology, and it seems to me that we desperately need a National Advisory Council on Education at the White House level to look at the overall educational needs including science and technology—but not just science and technology. We need to find out what our national goals are, to establish the priorities in education to which Congressman LINDSAY referred.

Kierkegaard has said:

We live life forward but understand it backward.

I hope that history will not record that we ended up in second place because this Congress and this Nation could not look forward and see that all of our plans and all of our programs and all of our aspirations, nationally, and internationally, will depend upon trained, educated, understanding people. The establishment of a National Advisory Council could certainly provide a body of distinguished educators and private citizens which would be regularly available to the President, to the Secretary of Health, Education, and Welfare, and to the Commissioner of Education for consultation on means of improving the educational system of the United States. And, finally, to once again try to emphasize the urgency, may I quote the British philosopher—Alfred North Whitehead:

In the conditions of modern life, the rule is absolute—the race which does not value trained intelligence is doomed. Not all your heroism, not all your social charm, not all your wit, not all your victories on land or sea can move back the finger of fate. Today we maintain ourselves. Tomorrow, science will have moved forward yet one more step, and there will be no appeal from the judgment which will then be pronounced on the uneducated.

Mr. LIBONATI. If the gentlewoman from Oregon will yield. In view of the fact that most of the universities and colleges are supported by private and religious institutions and comparatively

few, only about 10 percent, are public tax-supported institutions, does the gentlewoman feel that this situation is such that it should at least stimulate the Federal Government to finance in some form those students who are unable to attend the universities, and that appropriate measures should be taken here to permit that? There are some 1,200 universities and colleges supported by religious institutions alone. In no State are there more than two, actually, with the exception of the teachers' colleges, that are supported by the taxpayers' money. I think that would be an interesting phase of the discussion as to another reason why the U.S. Government should support higher education, in view of the fact that the public does not support it to the extent it should, and the ratio is only 10 percent.

Mrs. GREEN of Oregon. I appreciate the comments of my distinguished colleague from Illinois, and I would call his attention to the fact that the House Education and Labor Committee has favorably reported a bill providing Federal funds to all institutions of higher education for the construction of academic facilities. In the United States there are over 2,000 such colleges and universities—only some 720 are public or tax supported. Of the some 1,300 others, about 475 are Protestant church related, about 310 are Catholic church related and I believe 6 are supported by Jewish groups. The other 500 are nonchurch related. All are making a great and significant contribution to our national needs—and in my judgment, should be treated alike in the Federal program.

Mr. LINDSAY. I thank the gentlewoman for her competent and effective contribution to this subject and for her support on this bill. I was delighted that the gentlewoman mentioned the name of George Oakes, one of the leaders in the field of education whose contributions to the study of how we go about elevating the status of education in this country are worth reading by all Members.

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

Mr. LINDSAY. I am delighted to yield to my distinguished colleague, the gentleman from Massachusetts [Mr. MORSE].

Mr. MORSE. I would first like to congratulate the gentleman from New York and the gentlewoman from Oregon for their leadership in this field, and it is my distinct privilege to join these distinguished colleagues, together with the gentleman from Connecticut, in introducing this proposal to establish a National Advisory Council on Education.

As I see it, the enactment of this measure will affirm our belief in the prime importance of education to our national strength and provide a clear indication of congressional support for efforts to improve education at all levels.

The proposed Council, as our colleague described it, consists of 13 members chosen from the fields of education and all areas of business and professional life. The Council will, I am sure, be in a unique position to assess our educational posture and suggest action to be taken by the Congress, by the President, and by State and local educational agencies.

For too long priorities have been totally lacking in the public statements we so frequently hear, deploring our educational problems and proposing a variety of solutions to them. We need to take a realistic look at these problems and make a frank appraisal of what we can achieve in the way of improvement from year to year.

The bipartisan nature of the bill and its sponsorship will, I hope, lay to rest much of the partisan bickering that has too long persisted in this area. We no longer can afford to argue among ourselves while the education and potential achievement of our children and, indeed, the very future of our civilization hang in the balance.

Mr. Speaker, I hope the Members of this body will consider this measure in the spirit in which it is offered as an attempt to inject rational standards and priorities into the dialog on America's educational needs.

I thank my colleague for yielding.

Mr. LINDSAY. I thank the gentleman from Massachusetts.

Mr. Speaker, I ask unanimous consent that the text of the bill that has been introduced today by the gentlewoman from Oregon [Mrs. GREEN], the gentleman from Massachusetts [Mr. MORSE], and the gentleman from Connecticut [Mr. GIAIMO] and by me be spread upon the RECORD at this point.

The SPEAKER pro tempore (Mr. KASTENMEIER). Without objection, it is so ordered.

There was no objection.

The text of the bill is as follows:

H.R. 6595

A bill to amend the Act of July 26, 1954, to establish a National Advisory Council on Education

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 "National Advisory Council on Education Act of 1963."

SEC. 2. The Act entitled "An Act to establish a National Advisory Committee on Education", approved July 26, 1954 (68 Stat. 533), is amended to read as follows:

"That Congress recognizes that education must keep pace with the needs of the future.

"The Congress declares that education at all levels—primary, secondary, college, and graduate—constitutes the bedrock for the economic, social, political, and cultural strength of the Nation.

"The Congress declares that all avenues necessary for the fullest development of a sound, productive, and equitable educational system should be provided.

"The Congress finds that public and private studies since World War II have established the urgent need for improving the extent and the quality of education in the United States. These studies have shown that greater emphasis should be placed on the quality and content of curriculum, on higher standards of scholarship, and on the preparation and effective training of teachers.

"The Congress reaffirms the principle that the States and local communities have the primary responsibility for public education. It is consistent with this principle to provide means for the States to draw upon the experience and abilities of a distinguished body of educators, and to provide for the exchange of information toward improving the quality of education in the United States.

"The Congress also reaffirms that the United States Government has an overall obligation to see to it that education in the United States is the best the world over and that the youth of the Nation are equipped to take on the responsibilities of the future.

"The Congress believes that public attention must be constantly focused on the urgent importance of improving the educational system of the Nation.

"The Congress also reaffirms the historical, continuing role that the United States Government has played in providing opportunities and a climate in which the youth of the Nation may be equipped to assume the challenging and grave responsibilities of the future.

"Therefore, it is the purpose of this Act to establish a permanent National Advisory Council on Education.

"SEC. 2. In order to—

"(1) provide a permanent advisory body of distinguished educators and private citizens which will be regularly available to the President for consultation on means of improving the educational system of the United States,

"(2) focus public attention on the basic need for high standards of education and on the relation of education to all other areas of human endeavor and national progress, and

"(3) establish areas of priority in education, there is hereby established in the Executive Office of the President the National Advisory Council on Education (hereafter in this Act referred to as the 'Council').

"SEC. 3. The Council shall be composed of thirteen members appointed by the President and the Secretary of Health, Education, and Welfare, and the Commissioner of Education, who shall be ex-officio members. A majority of the members shall be prominent citizens with recognized interest in education and representing varying points of view. The President shall designate the chairman from among the thirteen members he appoints. Of the thirteen presidentially-appointed members, six shall be from the field of education and seven from the community at large with due regard for representation of different areas of the Nation and business, labor, and professional life. Each of the thirteen presidentially-appointed members shall hold office for a term of four years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

"(2) the terms of members first taking office after the date of the enactment of the National Advisory Council on Education Act of 1963 shall expire as follows: Five shall expire with the close of the second calendar year which begins after such date of enactment, five shall expire at the close of the third such calendar year, and three at the close of the fourth such calendar year, as designated by the President at the time of the appointment.

"SEC. 4. In addition to the general purposes stated above, the Council shall—

"(1) make an annual assessment of the goals, progress, and deficiencies of education in the United States and submit its findings to the President and the Congress;

"(2) recommend legislative proposals to the President to be enacted by the Congress;

"(3) for the purpose of assisting in efforts to improve the quality of education, suggest action that could be taken by the States and be available for consultation with Governors,

the chief officials of State educational agencies, and the heads of institutions of higher education, when requested by them on—

"(A) means of improving the quality and content of curriculums, with emphasis on the humanities, languages, and the sciences;

"(B) means of raising the standards of scholarship expected of students;

"(C) means of advancing specially-gifted students;

"(D) means of improving the quality of teaching;

"(E) means of mobilizing community and local efforts to strengthen educational institutions; and

"(F) other means of raising levels of educational achievement in accordance with national needs;

"(4) undertake such independent studies as shall be necessary to enable it to discharge its functions under this Act;

"(5) transmit to the President, the Secretary of Health, Education, and Welfare, the (United States) Commissioner of Education, and the Congress annually a report of its activities under the provisions of this Act; and

"(6) utilize the prestige of the President to keep public attention focused on improving the educational systems of the Nation.

"SEC. 5. (a) The Council shall meet at the call of the President or the Chairman, but not less often than twice during each calendar year.

"(b) The Council may appoint, without regard to the civil-service laws, consultants and such other personnel as may be necessary to carry out its duties under the provisions of this Act.

"SEC. 6. Members of the Council appointed as such by the President shall receive no compensation for their services, but while away from home or regular places of business while attending conferences or meetings of the Council, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"SEC. 7. There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act.

"SEC. 8. This Act may be cited as the 'National Advisory Council on Education Act'."

SEC. 3. The title of such Act of July 26, 1954, is amended to read as follows: "An Act to establish a National Advisory Council on Education."

GENERAL LEAVE TO EXTEND REMARKS

Mr. LINDSAY. Mr. Speaker, I ask unanimous consent that each of the Members who spoke on this subject today, and all other Members who may be interested, may have permission to extend their remarks at this point in the RECORD; and, specifically, I ask unanimous consent that the gentleman from Connecticut [Mr. GIAIMO] may be permitted to extend his remarks at this point in the RECORD.

The SPEAKER pro tempore (Mr. KASTENMEIER). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GIAIMO. Mr. Speaker, I am privileged once again to join my distinguished colleague, the gentleman from New York, the Honorable JOHN LINDSAY, in sponsoring legislation to establish a Presidential Advisory Council on Education. He is to be commended for his leadership in this field.

I am also extremely pleased to once again sponsor legislation affecting education with the distinguished gentlewoman from Oregon [Mrs. GREEN]. For years, I served on the gentlewoman from Oregon's [Mrs. GREEN] subcommittee and know her to be one of the most capable and sincere advocates of efforts to solve the crisis in education that this country has ever seen. She has gained a nationwide reputation for expertness, imagination, and practicality that has given to her work the stamp of greatness.

It is also a pleasure to cooperate in this venture with our colleague, the gentleman from Massachusetts [Mr. MORSE]. His participation is proof of the bipartisan base of this bill and I am pleased to be working with him on this important and vital problem.

Last year, when the gentleman from New York [Mr. LINDSAY] and I introduced similar legislation I said:

The multiplicity of arguments surrounding the issue of education threatens to obscure and confuse the true magnitude of the problems.

As a member of the House Education and Labor Committee, I had worked for 4 years to secure congressional approval of bills to aid various facets of our educational system. In our work, we encountered every day new and greater problems. Each day the crisis in education worsened and the efforts to meet the crisis bogged down just a little more in the mire of confusion, misunderstanding and often lack of communication. This situation caused the defeat of the badly needed aid to higher education bill. It stalemated any efforts to pass programs for special education, for the training of the handicapped child, and many other education bills.

This is the kind of stalemate that the President's Advisory Council on Education is expected to help resolve. Such a Council would give needed emphasis to the serious problems facing our educational system and our efforts to solve them.

In New England, we have a great tradition—the town meeting. This is a forum for all opinions, all sides of a question. In such a manner, local problems have been solved, the differences resolved. In a similar fashion, the bringing together of such an advisory council would give an opportunity for all to be heard—and for the attention of all to be focused on the great magnitude of this problem. The creation of such a Council would help to bring the entire nature of our educational crisis into perspective and would greatly aid the work of the Congress.

Although I am no longer a member of the Education and Labor Committee, I am still vitally interested in this country's educational needs. I am pleased to sponsor this bill and hope that the necessary congressional approval will be given as soon as possible. Each day that we delay in taking constructive steps to meet the crisis in our education, we do this country and its young people an immense disservice.

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

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

Mr. MacGREGOR. Mr. Speaker, I rise to heartily congratulate and commend the gentleman from New York [Mr. LINDSAY], the gentleman from Massachusetts [Mr. MORSE], and their colleagues from Oregon and Connecticut for taking this time in the House of Representatives today. Most assuredly the need for bipartisan support of a National Advisory Council on Education is here.

In my opinion, all of those vitally interested in education in America will have occasion often in the future to look back upon this day and this pioneering effort with deep gratitude for the efforts of our colleagues who have put forth this effort today.

SUBCOMMITTEE NO. 4 OF THE HOUSE COMMITTEE ON SMALL BUSINESS

Mr. EVINS. Mr. Speaker, I ask unanimous consent that Subcommittee No. 4 of the House Small Business Committee may be permitted to sit during general debate tomorrow.

Mr. MORSE. Mr. Speaker, I object.

RECENT FTC DEVELOPMENTS

The SPEAKER pro tempore (Mr. KASTENMEIER). Under previous order of the House, the gentleman from Texas [Mr. PATMAN] is recognized for 30 minutes.

Mr. PATMAN. Mr. Speaker, on May 20, 1963, FTC Commissioner Everette MacIntyre made a brilliant address to the Society of Business Advisory Professions, Inc., in New York City, describing the origins and functions of the Federal Trade Commission. He also explained the new trade regulation rule procedures which procedures are designed to inform all concerned of their obligations under the law and to assure equitable treatment in obtaining compliance with the law.

Commissioner MacIntyre also discussed another recent innovation at the FTC, which is its practice of issuing advisory opinions to provide guidelines to help businessmen know how to avoid violations of law.

Because this address is so informative, and of interest to business people and the general public, I am reading it into the CONGRESSIONAL RECORD:

RECENT FEDERAL TRADE COMMISSION DEVELOPMENTS

(By Everette MacIntyre, Commissioner, Federal Trade Commission)

INTRODUCTION

I have been requested to discuss with you today recent developments at the Federal Trade Commission. Included are such matters as the adoption of procedures for industrywide trade regulation rules and advisory opinions. Also, I have been asked to discuss proposals for voluntary compliance programs and other proposed changes in the Commission's rules. It is helpful to an understanding of a discussion of these matters to have some information responsive to the question, "What is the Federal Trade Commission?"

THE FEDERAL TRADE COMMISSION

Separate statements from different persons through the years have been made which could be regarded as answers to the question "What is the Federal Trade Commission?"

These answers vary widely. Of course all who have any information about the Federal Trade Commission could answer the question with the statement that the Fed-

eral Trade Commission is a Federal agency of five Commissioners appointed by the President of the United States, by and with the consent of the Senate. From there, even the views of those who have some information about the Federal Trade Commission vary widely about it and what it does. The expressions of these widely varying views confuse and then compound confusion. It is the responsibility and duty of the Federal Trade Commission to help protect business and the public from unfair acts and practices.

The Federal Trade Commission's principal authority to protect businessmen, consumers, and other members of the public from unfair acts and practices is derived from the Federal Trade Commission Act, as approved in 1914, and as amended in 1938.

The most important part of the Federal Trade Commission Act is set out in section 5(a)(1) of said act and contains only 19 words. Those words are: "Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful."[1]

The jurisdiction of the Commission originally was based upon injury to competition, actual or potential, and injury to or deception of the public was not of itself sufficient to constitute an offense under the statute. The defect became apparent in the 1930's when the courts set aside a Commission order against false advertising because there had been no showing of competitive injury. This imperfection was remedied by the 1938 amendment, which declared "unfair and deceptive acts and practices in commerce" to be in the same unlawful category as "unfair methods of competition." Since then the Commission has been able to proceed directly to protect consumers and other members of the public while at the same time eradicating competitive methods which unfairly divert trade from the honest to the unscrupulous members of the business community. We should, therefore, keep in mind, then, that the purpose of the Federal Trade Commission is to protect the public by protecting competition. Through its performance of that function the Federal Trade Commission serves as a guardian of our free and competitive enterprise system. We are all familiar with the fact that the concept underlying our public policy for a free and competitive enterprise system calls for free and fair competition.

Unless we accept that concept and acquire a reasonably good understanding of what it means to us in our everyday affairs, we are not likely either to understand or to accept the Federal Trade Commission or what it is doing. Indeed, we will suffer confusion and become confounded as that confusion becomes compounded.

A story coming out of the happenings of World War II will serve to illustrate that point. The story is to the effect that a salesman of war bonds had covered the territory and prospects assigned to him except for a cabin and its occupants located upon a high hill at the edge of his territory. In an effort to cover that portion of his assignment, he found it necessary to park his auto at the foot of the hill and climb the footpath to the top. As he did this and reached the top, his eyes fell upon an unusual sight. There he saw the woman of the house hitching her husband to a plow. The husband, upon sighting the stranger, galloped off around the house, dragging the plow. The woman of the house approached the salesman to inquire about the purpose of his call. The ensuing conversation did not result in a sale of war bonds. As the salesman trudged his way down the hill to his auto, the husband returned from around the rear of the house, dragging the plow.

He asked his wife "What did that fella want?" She replied, "I don't rightly know. It seems that some fella by the name of Hitler went with some girl by the name of Pearl Harbor to some place called Churchill and got into a mess of trouble. This fella now wants us to go their bond."

One thing is clear. There was gross misunderstanding in that case. It is my hope that the few remarks I make here today will help you avoid such gross misunderstanding about the Federal Trade Commission and the recent developments there.

When the Sherman Anti-Trust Act was passed in 1890 it was thought that the language of its provisions was quite definite and sufficiently broad for appropriate regulation of interstate and foreign commerce. Particular basis for that thought is found in the words of the first section of that law to the following effect: "Every contract combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is hereby declared to be illegal," and the words of section 2 to the effect that "Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court."

First, proposals were made that the Sherman Act be amended to provide for some exemptions from its application to certain conditions and practices. Those proposals were rejected. Then proposals were made to make the application of the Sherman Act more flexible by making it effective only where trade restraints and monopolistic conditions were found to be unreasonable.

At first the Supreme Court rejected proposals that it make the Sherman Anti-Trust Act indefinite by reading into it an interpretation which would make it applicable only to unreasonable restraint of trade.[2]

Although these proposals were not acted on by the Congress, the law, through the process of judicial interpretation, was made almost as general and broad in its sweep as the common law of England and this country. A part of this development was the decision by the Court in the Standard Oil case.[3]

In that case the "rule of reason" was read into the Sherman Act and that law was, thereby, made to apply only to unreasonable restraints of trade.

The uncertainties inherent in such a situation were aptly described in the opinion of Justice Harlan, a member of the Supreme Court, who participated in the decision in the Standard Oil case.

Justice Harlan pointed out that now the Sherman Act, even though it is a criminal or penal statute, is indefinite and uncertain in its application. He observed that businessmen and others made subject to the act are without guidelines regarding its application to particular situations.

The Federal Trade Commission Act is couched in terms almost as general as those of the Sherman Act and with greater breadth. The Supreme Court has ruled that the words "unfair methods of competition" are not defined by the statute and their exact meaning is in dispute. However, they have held them to be applicable to practices opposed to good morals because characterized by deception, bad faith, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly.

It is clear that Woodrow Wilson in asking for legislation to create the Federal Trade Commission not only wanted an agency which would have broad power under such general provisions of law to halt unfair methods of competition, but also wished it to act to assist businessmen in better understanding their responsibilities under such law. He made that clear when he stated, in referring to the need for a Federal Trade Commission:

"It is of capital importance that the businessmen of this country should be relieved of all uncertainties of law with regard to their enterprises and investments and a clear path indicated which they can travel without anxiety. It is as important that they should be relieved of embarrassment and set free to prosper as that private monopoly should be destroyed. The ways of action should be thrown wide open."[4]

On September 2, 1916, in his speech of acceptance on renomination to the Presidency, Wilson restated his view of the function of the Commission in the following terms:

"A Trade Commission has been created with powers of guidance and accommodation which have relieved businessmen of unfounded fears and set them upon the road of hopeful and confident enterprise."[5]

"We have created, in the Federal Trade Commission, a means of inquiry and of accommodation in the field of commerce which ought both to coordinate the enterprises of our traders and manufacturers and to remove the barriers of misunderstanding and of a too technical interpretation of the law. The Trade Commission substitutes counsel and accommodation for the harsher processes of legal restraint."[6]

From existing circumstances and our experience, it is clear that public policy will continue to dictate that our antimonopoly laws continue with their broad sweep covering a multitude of unspecified trade practices and conditions. It cannot be expected that the Congress will undertake to specify in new legislation each of the trade practices and conditions likely to fall within the broad sweep of the Sherman Act and the Federal Trade Commission Act. Therefore, businessmen and the public are unlikely to enjoy flexibility, breadth, and certainty under our antimonopoly laws unless there is action from day to day by an administrative law agency such as the Federal Trade Commission, devoted to spelling out and specifying what trade restraints and conditions are unlawful, and aiding in the establishment of guidelines for avoidance of pitfalls leading to violations.

For a substantial period of time the Commission has utilized a trade practice conference procedure for the purpose of informing itself about industrywide practices alleged to be unfair. It has proceeded to utilize that information in formulating statements of what the Commission believed to be applicable as law to the trade practices in question. These statements were designated as "trade practice rules" and were designed to afford guidance to industries and enable them to voluntarily operate in compliance with the interpretations of the law by the Commission and the courts. It was hoped that through such advisary rulemaking procedures there would be voluntary compliance with the acts administered by the Commission.

The Commission's files are replete with information to the effect that in many instances the wide publicity given to the Commission's trade practice rules and its statements of guides, have had a wholesome

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[1] 38 Stat. 717 (1914), as amended, 52 Stat. 111 (1938), 15 U.S.C. 41 (1958).

[2] *U.S.* v. *Trans-Missouri Freight Association*, 166 U.S. 290 (1897); *U.S.* v. *Joint Traffic Association*, 171 U.S. 505 (1898).

[3] 221 U.S. 1.

[4] "Messages and Papers of the Presidents," vol. XVI, Bureau of National Literature, Inc., pp. 7909–7910.

[5] Ibid., p. 8151.

[6] Ibid., p. 8158.

effect in improving compliance with law. However, the sad fact about the matter is that in a number of very important areas, industrywide practices adverse to the trade generally, and apparently inconsistent with the law, have been continued despite publicity given to the Commission's trade practice rules and guides.

The trade regulation rule procedure

It is gratifying to report to you that on May 15, 1962 the Federal Trade Commission announced that it had approved and would put into effect on June 1, 1962, a new procedure providing for the establishment of trade regulation rule proceedings.

Under this new procedure the Commission will promulgate rules expressing its experience and judgment, based upon facts of which it has knowledge derived from studies, reports, investigations, hearings, and other proceedings, or within official notice, concerning the substantive requirements of the statutes it administers. The rules thus developed and issued by the Commission may cover all applications of a particular statutory provision and may be nationwide in effect, or they may be limited to particular areas or industries or to particular products or geographical markets as may be appropriate. Following its promulgation and issuance, and where any such rule is relevant to any issue involved in an adjudicative proceeding thereafter instituted, the Commission may rely upon such rule, provided that the respondent shall have been given a fair hearing on the legality and propriety of applying the rule to the issue in his particular case. That is to say that the effective rule would be to take it as the basis for the establishment of a prima facie case with opportunity for the respondent charged with the violation of the rule to defend on the contention and showing that the rule should not be regarded as legally binding and appropriately applicable to the practices which have been challenged as being in violation of the rule.

Of course before the Commission would promulgate and issue rules of this kind under its new rulemaking process, it would give proper notice and afford hearings to all interested parties on any proposed rule. The proceedings may be initiated by the Commission upon its own motion or pursuant to a petition filed by any interested party. Following notice and hearings, the Commission after due consideration of all relevant matters of fact, law, policy and discretion, would proceed to promulgate and issue the rule with a brief general statement of its basis and purpose. It would not become effective until after it has been published in the Federal Register.

In this dynamic and space age it is anticipated that changing conditions are likely to bring about need for revision or repeal of rules. Therefore, the Commission's policy and procedure will provide for amendment, suspension, and repeal of any such rule. In that way the administrative process will serve the needs of the public interest and businessmen from day to day. Rapidly changing conditions emphasize that those needs can be served in no other way.

Inquiry has been made as to the areas suitable for the application of trade regulation rules and whether they would be limited to situations where the courts have sustained the Commission in prior adjudicatory proceedings.

I can see no need for limiting rules to situations where they are supported by Commission orders to cease and desist. A trade regulation rule may be established under this rulemaking procedure by use of facts, knowledge, studies, and expertise of the Commission so long as the rule is well founded. New and novel practices may well be the subject of trade regulation rules. These rules may cover all applications of a particular statutory provision and may be nationwide in effect, or they may be limited to particular areas or industries or to particular products or geographic markets, as may be appropriate.

A proceeding may involve economic or other studies of industry problems in depth. It might apply to a trade area or areas or relate to one facet of the economy on a national basis.

Industry members have indicated that the most appropriate and effective application appeared to be where unfair practices are limited to one or at least a narrow range of unlawful practices and the practices are of concern to the entire industry. The rule would be directed against practices rather than named persons or firms and would be appropriate where many, possibly a hundred or more, concerns would be subject to the rule. This would be especially true where the rule would eliminate the possibility of a multitude of formal proceedings. In no event would the substance of a rule attempt to reach beyond the scope of the applicable statute. The rule may have application to specified unfair methods of competition by designated classes of companies in a designated industry or a specified market. The rules would constitute a more compelling force for law observance. Businessmen would know that a violation would be an invitation to litigation with the Commission.

Under the new supplementary rulemaking procedure, applications have been received from representatives of firms in a number of industries. Our Trade Regulation Rule Division in the Federal Trade Commission's Bureau of Industry Guidance, has under study and consideration proposals for trade regulation proceedings affecting more than a dozen industries.

At this time I am able to report to you that the Commission has announced two hearings on the first proposed rules under this new trade regulation rule procedure which became effective in June 1962.

These two proceedings involve the sewing machine manufacturing industry and the industry engaged in the production of sleeping bags. The objective of these initial undertakings is to formulate proper rules regarding industrywide use of the word "automatic" for describing sewing machines and the use of certain size dimensions for sleeping bags.

These proceedings are designed to inform all concerned of their obligations under the law and assure equitable treatment in obtaining compliance with the law. Any trade regulation rule eventually adopted will be binding upon the entire industry.

Advisory opinion procedure

Another major innovation has been the Commission's decision to issue advisory opinions. This is a very recent development, and many of you may not be aware of it. The decision was long overdue, for if the Commission is to fulfill its purpose of providing guidance to businessmen, what better time is there to provide the guidance than before the law is violated? Previously, advice in the form of opinions was offered only by the Commission's staff and such advice was not binding on the Commission. This made the advice of such limited value to businessmen that few bothered to ask for it. Under our new system, advisory opinions do bind the Commission. And, in the unlikely event that such opinions would have to be changed, sufficient notice would be given before any adversary action would be taken.

Perhaps it is of interest to you to know that more than 100 requests have been made to the Commission for advisory opinions as provided for under this new procedure. These requests have involved proposed courses of action presenting many questions about the application of laws entrusted to the Commission. In each instance where the Commission found it practicable to do so, it rendered an advisory opinion, binding on the Commission, regarding the legality of the proposed course of action under the laws administered by the Commission.

Proposals for voluntary compliance programs

One proposal that leading representatives of manufacturing firms has advanced is for a change in the procedure and practice at the Federal Trade Commission to provide greater opportunity for firms whose practices are questioned to act promptly and voluntarily in bringing themselves into compliance with the law without being made the subject of investigation and litigation. Proposals along this line have been made from time to time over the years. Many of the proposals as made in the past were severely criticized in Congress and elsewhere because they smacked of suggestions that cases which had been developed against law violators be dropped on the promise that the violators would "go and sin no more." Some of the more recent proposals advanced by representatives of leading manufacturing firms have avoided much of the basis for this criticism. Therefore, they were given careful consideration by a number of us at the Federal Trade Commission.

It has been argued that many of the inequities arising from following the case-by-case method of enforcing our Federal trade regulation laws can be avoided and in many instances would be avoided, if the businessmen accused were afforded the opportunity to voluntarily comply with the law before investigation and litigation ensues. It is further argued that a voluntary compliance procedure may substantially reduce the load upon the Commission's staff and in turn enable it to expeditiously dispose of in a proper manner the cases which must be undertaken in the prosecution of formal proceedings.

In view of these circumstances it is believed that we should act to improve our procedures to assist us more effectively in our efforts to persuade businessmen into voluntary compliance with the law. In making this suggestion I am not proposing that we consider changing our policy or procedures to provide for the dropping of antimonopoly cases once they are taken up and have reached the stage where the Commission has undertaken litigation or otherwise has been led to believe that injury in violation of our antimonopoly laws is actually occurring. However, I do believe that there is room for us to move forward and make considerable progress in our effort to persuade businessmen into voluntary compliance with the law without doing violence to policies the Commission has adhered to heretofore. I say that because it is my firm belief that we can make changes in our policy and procedures which will provide a greater opportunity for us to persuade businessmen into voluntary compliance with the law before we are compelled to investigate and litigate cases against them.

These thoughts prompt me to say that I shall urge the Commission to adopt a procedure along these lines designed to promote more effectively voluntary compliance with the law. For the purpose of identification at this time I would describe this suggested procedure as a "preinvestigation conference."

It is believed that if the Federal Trade Commission should approve and put into effect a procedure such as I suggest, business and the public will benefit. It could mark the real beginning of an effective partnership of Government and business in developing a program for voluntary compliance with the law. The end point result would be a greater degree of fairness and far more effectiveness flowing from the application of our Federal trade regulatory laws.

Proposals for delegation of responsibility

A number of proposals have been made that the Federal Trade Commission consider

delegating to either one of its members or to members of its staff some of the responsibility Congress entrusted to the Commission under the law.

One of the greatest responsibilities entrusted to the Commission is the issuance of complaints and orders to cease and desist.

The law provides for the Commission to issue a complaint only when it has reason to believe that provisions of the law entrusted to the Commission are being violated.

Recently proposals were advanced that the Commission delegate to the heads of its enforcement bureaus the authority to determine "whether there is reason to believe that a violation has been committed" and to issue complaints subject only to review by the Commission.[7] Such proposal, it is suggested, could be effected pursuant to the provisions of Reorganization Plan No. 4 of 1961. In that connection it must be remembered that Chairman Dixon of the Commission, in testifying before a Senate committee in support of Reorganization Plan No. 4, commented upon the thought that under it the Commission could delegate the authority to issue complaints. He stated:

"I don't think a majority of the Commission would ever delegate the right to anyone to issue a complaint and *I* would oppose it myself."

I do not believe that any businessman should be made the subject of charges in a complaint unless it has been fully considered and the Commission itself has been led to believe that a violation of law has been or is being committed. However, strange things do happen. A present member of the Federal Trade Commission has been advocating that the Commission delegate to its staff the authority and power to issue complaints.

These proposals that the Commission delegate the authority and responsibility Congress entrusted to the Commission to issue complaints and orders to cease and desist, in my opinion are not proper. The members of the Federal Trade Commission are appointed by the President, with the consent and advice of the Senate. Presumably, they are responsible for their actions. They are in such position that they must answer for the propriety or impropriety of any action they take as members of the Commission. When the Commission makes an error through the action of its members, businessmen are able to point to the members of the Commission as the ones responsible for the error. That is as it should be. Let no member of the Federal Trade Commission be provided with an opportunity to escape criticism for error committed at the Commission by pointing to unspecified members of the Commission's staff and saying, "There is where the error was made."

CONCLUSION

The new policies which have been adopted by the Federal Trade Commission provide businessmen with opportunities never before available. Now, you and other representatives of businessmen are enabled to get together with representatives of your Government for the purpose of exchanging views and eliminating troublesome problems. If businessmen cooperate willingly in such undertakings, the opportunities are for you to become partners, rather than antagonists, in the development of fundamental policies and relationships between Government and business. In this way you are provided a voice in the development of sound trade regulation policies. If businessmen and their representatives evidence statesmanship in taking advantage of these opportunities, pitfalls may be avoided and you may escape the interminable legal processes inherent in the case-by-case approach of adversary litigation in the resolution of trade regulation problems.

I deeply appreciate the opportunity you have provided for me to visit and discuss these problems with you today. I say that because I sincerely believe that the better we understand each other, the better we can work together for the good of business and the public.

[7] According to items appearing in the press, this proposal was set forth in "Report on the Internal Organization and Procedure of the Federal Trade Commission," by Carl Auerbach, Staff Director of the Committee on Internal Organization and Procedure of the Federal Trade Commission.

HON. FRITZ G. LANHAM

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Texas [Mr. WRIGHT] is recognized for 30 minutes.

Mr. WRIGHT. Mr. Speaker, I am taking this time in order to say a few words in behalf of a very great American and an outstanding native son of my State and district.

Fritz G. Lanham, who served with great distinction in this body for 28 years, is leaving Washington today to return to Texas after 45 years on the Washington scene.

He and his lovely wife, Hazel, will be missed in Washington. But it is fitting that, in the twilight of a distinguished career, he would want to return to the State of his beginnings, the State he served so well, and there enjoy a well-earned reward of old friendships renewed and old scenes revisited.

It is in the spirit of flowers for the living that some of Fritz' friends and former colleagues have thought that it might be appropriate today to devote a few minutes here in this Chamber he has loved so well to speak briefly of a few of his brilliant contributions and to wish him a pleasant trip back and many happy days in the Texas sunshine.

Fritz Lanham is to me the embodiment of that much overly used phrase, "a gentleman and a scholar." In solemn truth, he is both. The gentle manner and the never failing kindly good humor with which he has always greeted the world and his fellow man are matched by the scholarship of a lifelong student.

The son of Sam W. T. Lanham, who was to serve in the Congress and as Governor of Texas, Fritz was born in Weatherford on January 3, 1880. His family came to Washington in 1883 where his father served for the succeeding 10 years in Congress. Fritz attended the public schools in Washington and was graduated in 1897 from Weatherford College, an institution which still has his bachelor's degree framed in the president's office. Later he attended Vanderbilt University and the University of Texas, taking a law degree from that institution.

Educated in the classic sense, Fritz was and is a Greek scholar. During one semester, he taught the courses in Greek at Weatherford College. While a student at the University of Texas, his scholarship and popularity lead his fellow students to name him editor of the Daily Texan. It was during that time that he undertook in a whimsical mood to translate the story of the Trojan Wars into modern and humorous English verse. This popular compendium was published by the Ex-Students Association in 1927 in book form.

While his father was serving in the Congress, Fritz came to Washington and served for a time as his father's assistant. Things were greatly different then. I have talked with Fritz about the pace of events in those early times and have been amazed by the differences which existed. People did not write so many letters, and there was time for a Congressman to devote his energies and efforts to real scholarship. Although the elder Lanham served a congressional district which then comprised almost half the entire State of Texas, Fritz relates that there would be maybe five or six letters daily to be answered.

Fritz came to Congress in April of 1919 and served here until January 19, 1947. After 28 years in this House, a period which spanned two world wars, Fritz voluntarily retired, not seeking reelection.

While in Congress, he served with distinction as chairman of the old Committee on Public Buildings and Grounds, and as ranking member of the Committee on Patents prior to the Reorganization Act.

Always devoted to his native State and its traditions, Fritz frequently would rise on March 2 or April 21 to hold the House spellbound by his accounts of the signing of the Texas Declaration of Independence from Mexico and the Battle of San Jacinto.

Fritz Lanham has been a man always grounded in the noble traditions of the past but in tune with the times, and he has been among the first to look ahead for solutions to problems as they revealed themselves in our economic and social structure.

His compassion was revealed in his sponsorship of bills to bring about emergency relief for the unfortunates who suffered through our great depression of the early 1930's, and in providing Federal assistance to the blind. The Lanham Act speeded up the construction of hospitals under the WPA program, and provided jobs for destitute men.

He saw the storm clouds gathering in the late 1930's and warned his colleagues of the madness of Hitler. He made speeches from the floor of this House in 1940 and 1941 calling attention to the Nazi Bund meetings being held around the country, and expressed his concern over this fanatical movement. He voted for the Draft Extension Act just a few months before Pearl Harbor, on a day when this body passed by but a single vote the legislation that provided the beginnings of the defense machine that led us to victory in World War II.

At the outset of the war, Fritz Lanham was among the first to push for a greater naval shipbuilding program and more appropriations for defense. He was a prime leader in the move to provide housing for defense purposes, at sites where armies trained and defense plants turned out the tools of war. In 1943, with victory still 2 years away, Fritz Lanham looked ahead to sponsor bills providing maternity care for wives of servicemen and to establish a Veterans' Rehabilitation Act. He wanted the Government to permit a grateful Nation to assist returning veterans with their

educational, employment, and housing problems. History records that he was successful.

It could well be said that Fritz Lanham helped to change the physical landscape of our Capital City, his own native Texas and many other States.

Serving as a member of the Public Buildings Commission from 1924, he was instrumental in the construction of such public buildings as the Pan American Union Building, the Supreme Court, a House Office Building for the Congress and the George Washington Memorial Parkway and Mount Vernon Memorial Highway.

The public buildings, in the form of veterans' hospitals, post offices, and Federal buildings which were constructed as a result of legislation sponsored by Congressman Lanham, are numerous. At such Texas points as Fort Worth, El Paso, San Antonio, Weatherford, Granbury, Cleburne, Dublin, for example, the people continue to use buildings that will long stand as silent memorials to the care and attention Fritz Lanham gave the needs of Texas.

Fritz Lanham's father was a Confederate war veteran, and the internal strife of the years 1861–65 seemed real and personal to the young Fritz Lanham as he grew up. This personal feeling for those troubled years stayed with Fritz Lanham the man, and he authored bills to permit the donation of cannons used in the War Between the States to many cities in Texas. Those cannons, with the familiar stack of polished cannonballs near at hand, still look out from the courthouse lawns and city hall squares of more than a dozen Texas cities.

In 1943, during World War II, one Member of Congress attacked then President Roosevelt with the claim that his sons were being given assignments remote from combat zones. Elliott Roosevelt, at the time a lieutenant colonel in command of an air reconnaissance group in North Africa sent a letter to Fritz, who represented the district in which Elliott then resided. Fritz rose in the House and read the letter, and when he had finished, Republicans and Democrats alike rose to applaud. This is typical of the spirit of fair play which came to be the Lanham hallmark in Congress.

Always close to his heart has been the Methodist Church, and on 25 separate occasions while he served in the Congress, Fritz was called upon at the congressional adjournment to preach in the First Methodist Church of Fort Worth. It came to be a tradition. Well do I remember one such occasion in 1945 at the end of the war. Fritz Lanham spoke for about 30 minutes, and I did not realize the hush which had fallen over the great sanctuary with its huge crowd until he had finished. Then the mere moving about of the parishioners was like a deafening noise as compared with the stillness which had pervaded the sanctuary while Fritz was speaking.

After leaving Congress, he has continued for the past 16 years to give his time and effort and talents to the promotion of water resources development, particularly in the watershed of the Trinity River of Texas. In that capacity, he has appeared numerous times before congressional committees.

So now that he is returning to his native State for a bit of well-earned rest from the labors and activities of a busy, eventful, and productive life, we in the House take this occasion to wish him well and send with him our cheers and our best and warmest regards.

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

Mr. WRIGHT. I yield to my colleague, the distinguished dean of the Texas delegation [Mr. PATMAN].

Mr. PATMAN. Mr. Speaker, I rise to speak out of respect and admiration—and no little affection—for a remarkable Member of this House of former years, and a distinguished American on the Washington scene. He is one of the grand old men from Texas—former Representative Fritz Garland Lanham, who is about to leave this city here for his home State. Many of us will of course not permit him to be estranged from us by this departure and while we shall see and correspond with him he will nevertheless be missed. For he is easily one of the best educated and courtly gentlemen who through the decades graced this great parliamentary body.

Former Congressman Lanham was born in Weatherford, Tex., in 1880, but he came here to Washington as a boy and attended its public schools, returning to Texas and graduating from Weatherford College in 1897. He did graduate work at Vanderbilt University and in 1900 was graduated from the University of Texas, at Austin. He studied law later at the University of Texas and was admitted to the bar in 1909. In 1917 he was elected to the 66th Congress and was reelected to the 67th and to 12 succeeding Congresses, serving up to January 3, 1947.

This in passing is a capsule story of the career of Congressman Lanham but it hardly tells the story. In Fort Worth, in Weatherford, here in Washington, and subsequently as an adviser on legislative matters, Congressman Lanham improved what I like to call the legislative process. He raised the level of politics not only by the affability and the cultural graces that made his personality so outstanding, but he made life itself pleasanter by his background and the manner in which he employed it to lubricate the machinery of life and legislation. His district, his State, and our country benefited from his veteran service in this House and from the influence always for the public interest that he wielded in his elected office and his private life. I for one will miss his sage counsel and advice here in Washington but I shall miss even more the geographical closeness—now that he is going to Texas—that heretofore put him in such convenient reach. Nevertheless, I know he will enjoy the tranquillity and the friendships of Texas and—along with so many others here who remember him well—I wish him the best that he has earned for himself in a life rich with honor and accomplishment.

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

Mr. WRIGHT. I yield to my distinguished colleague, Mr. MAHON.

Mr. MAHON. Mr. Speaker, I feel that my friend from the Fort Worth district has performed a great service by taking note of this significant day when one of the greatest Texans of them all is leaving this Capital City of the Nation and the world, after having been an important figure here for so many years.

Mr. Speaker, when Fritz Lanham was in the Congress he was strictly on the first team. Perhaps this was the golden age of Texas in the House. During his tenure here we had from our State the Speaker of the House, the chairman of the House Judiciary Committee, the chairman of the Committee on Agriculture, the chairman of the Appropriations Committee, and Mr. Lanham himself was the chairman of an important committee. Our State occupied an enviable position in the House of Representatives and Fritz Lanham was a bright and shining light.

Mr. Speaker, Mr. Lanham in my judgment was the most polished orator in the House of Representatives during his service in the House. He was and is a very literate and learned and eloquent man.

It is good to pay tribute to the long record of service in Washington of a man like Fritz Lanham.

Mr. Speaker, I am glad to live in a country which produces men of the quality and stature of Fritz Lanham. Mr. Lanham's success in life can be attributed to his qualities of character, qualities which were blended in him in a most remarkable way. In addition to his qualities of statesmanship he has a quality of humor and good fellowship which makes him a welcomed guest in any group.

Mr. Speaker, I am delighted and pleased to join with the gentleman from Texas [Mr. WRIGHT], the Representative from the Fort Worth District, and other Texans in these words of admiration and esteem for our good friend who leaves Washington for Texas today. May the Lord's blessings be upon him and his charming and lovable wife, Hazel.

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

Mr. WRIGHT. I yield to my distinguished colleague, the gentleman from Texas [Mr. POAGE].

Mr. POAGE. Mr. Speaker, I want to join with the gentleman from Fort Worth [Mr. WRIGHT] in paying tribute to our great friend, Fritz Lanham.

Mr. Speaker, it was my great privilege to serve 10 years in this House with the Honorable Fritz Lanham, who at that time represented the 12th District of Texas. Mr. Lanham's uncle was long a revered citizen of my hometown of Waco. The Lanham family was and is known and respected across our State. His father served in this House and also served for 2 terms as Governor of Texas. Fritz Lanham worked with him as a secretary. It was, therefore, no accident that when he was elected to represent the 12th District he entered upon

his duties with probably the greatest background of experience of any Representative that district ever had. Nor did he disappoint his people. He served them with outstanding diligence and ability. At the same time he served the Nation equally well.

When I became a Member of this House, Fritz Lanham was one of the leaders. He served as chairman of the Committee on Public Grounds and Buildings, whose jurisdiction was under the Reorganization Act taken over by the Public Works Committee, on which his present successor, the Honorable JIM WRIGHT, serves with so much distinction.

Fritz was, however, far more than merely 1 of 435 Representatives serving a district. He was, and is, a man of outstanding education, polish, experience, and character. I shall never forget that I thought that the University of Texas passed up the greatest opportunity in its history in not seeking Mr. Lanham as its president. I have never known if he would have accepted this position, but I have always felt that that institution would have been an even greater institution today had it been able to secure his leadership.

Fritz is a man who has the vision of a poet and the eloquence of an orator to transmit his thoughts. At the same time he has the practicality of the classic businessman.

For more than 15 years he has represented business interests here in Washington, and he has done an exceedingly fine job. Fritz understands the necessity of progress, but he realizes that progress must be made in an orderly and a legal manner. He has always defended the great institutions on which our democracy rests. At the same time he has effectively advocated greater educational opportunities for our people. He has served the special needs of his district, but he has never forgotten the broad needs of his country. He has been an effective advocate and he has always been kind, gentle, and generous.

Fritz and his beloved wife, Hazel, have endeared themselves to the people of Washington, where they enjoy the friendship of all who know them. Their reputation here leaves nothing to be desired, and I have heard friends in Washington ask: "Why do they leave?" Mr. Speaker, I cannot tell you why they leave. Fritz Lanham would have appropriate words to express this feeling, but I know why they leave and so does any other Texan. They leave the National Capital to return to their home State while they yet have time to enjoy those friendships and associations which have meant so much over a long span of years and will mean even more during the years to come. Those of us who are working here may say without thinking that we are sorry to see them go, but as one who deeply values their friendship, I am happy to see them go home to Texas. I know they will there enjoy an association that cannot be found elsewhere.

So, Hazel and Fritz, your friends in Washington who are—at least for some part of the years—also your friends in Texas are delighted to welcome you home. We will see you next fall. In the meantime, we wish for you all of the richest rewards of a half century of outstanding work in the Nation's Capital.

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

Mr. WRIGHT. I yield to my distinguished colleague from Texas [Mr. FISHER].

Mr. FISHER. Mr. Speaker, I wish to associate myself with everything that has been said about our friend, Fritz Lanham. It was my pleasure to serve with him in this body for a number of years and I had a good opportunity to know and observe him during that time. Fritz Lanham during his service here was undoubtedly one of the most affable gentlemen I have ever known. He was able, energetic, and applied the yardstick of true statesmanship to every official act he performed. I have never known a more honorable man.

Even though a very busy man, Fritz was always willing to take time out to do a favor if he felt it was deserved. I will never forget an occasion when he did me a favor that meant very much at the time and which resulted in lasting benefit to an entire community.

Fritz served in this body for 28 years. During that time he contributed substantially to progressive legislation and to the preservation of our institutions. He was essentially a conservative man in his philosophy, and never deviated or yielded to the pressures of the moment from those who were not inspired by purposes consistent with the best interests of good government. It is too bad that we do not have more Members of Congress today dedicated to the preservation of sound government. Fritz Lanham left a record of distinguished service when he decided to retire from Congress several years ago.

I join with my colleagues today in wishing for Fritz and his lovely wife the very best happiness and good health as they leave Washington and return to Texas. We shall miss their presence in Washington.

Mr. BURLESON. Mr. Speaker, will the gentleman yield to me at this point?

Mr. WRIGHT. I yield to my colleague, the gentleman from Texas [Mr. BURLESON].

Mr. BURLESON. Mr. Speaker, I have a feeling of presumptuousness in expressing approbation of our beloved and esteemed former colleague, Fritz Lanham. His long record of public service and his exemplary life in all respects are of record and repose in the memory of all those who have had contact with him, and who are aware of his great contribution to our Nation and to the State of Texas.

This being true, there is, however, a fickleness on the part of even the best of friends, who, in their deep preoccupation with problems of the day, are caused to forget and neglect.

Just a few hours ago I saw Fritz Lanham and his lovely wife Hazel depart Washington to return to Texas for retirement. In those moments I felt that, not only were dear personal friends leaving our midst where we have for many years become accustomed to having them, but that a part of Washington itself, and particularly the legislative branch, was being broken off.

Fritz Lanham is one of the last, if not the last, of the "old school." His leaving the active scene of Washington is like a great actor taking his last bow in a dignified but stirring drama, which many of us have viewed with admiration for many years.

Fritz Lanham is one of those rarely gifted individuals who, when a Member of Congress, exhibited the type of leadership which many of us have taken pride in following. He was a politician's politician in the truest sense of the word. In recent years the term "politician" has assumed connotations unfavorable to the true art of political science which the term actually describes. Fritz Lanham was a student of the science of government and had the ability to impart his knowledge of the fundamentals to those about him. He recognized change and was able to meet it in the perspective of the day. His great contribution and leadership during the critical war years are of record. He never lost sight of reality, but at the same time, was implicitly true to the fundamentals. I recall that in one of the first speeches which I ever heard Fritz Lanham make, he reflected the deep philosophy to which he subscribed. In that speech he quoted remarks of Daniel Webster, made in 1832, the tenets of which are as alive today as they were then.

These words were quoted by Fritz Lanham from Daniel Webster, following the turmoil of war years, as a warning against innovations, shortcuts, and expediencies of the day. May we heed these words and many others of such men of stature as Daniel Webster and Fritz Lanham:

> Other misfortunes may be borne, or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolate and lay waste our fields, still, under a new cultivation, they will grow green again, and ripen to future harvests. It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No, if these columns fall, they will be raised not again. Like the Coliseum and the Parthenon, they will be destined to a mournful, a melancholy immortality. Bitterer tears, however, will flow over them, than were ever shed over the monuments of Roman or Grecian art; for they will be the remnants of a more glorious edifice than Greece or Rome ever saw, the edifice of constitutional American liberty.

In the days of his leadership in this House of Representatives, I know his influence was keenly felt by every Member who looked to him for the sound advice and admonitions which he was so able to impart.

I remember well that on the occasions when he appeared before this body to speak, there was hushed attention as he

spoke in his inimitable manner. In addition to his other great attributes, there also passes off the political scene one of the greatest orators of our day.

Fritz Lanham's presence in Washington will be missed, but his influence, the inspiration which he gave to those of us who served with him, the appreciation of his statesmanship and devotion, will remain.

I join my other colleagues in the hope that Divine blessings may shine down on Fritz and Hazel in their home in Texas as brightly as the sunshine under which they live. We assure them that the warmth and brightness of their friendship will still reflect all the way back to the Capitol of our Nation, to which they have contributed so very much.

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

Mr. WRIGHT. I will be happy to yield to my colleague [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Speaker, I am glad to join with the distinguished gentleman from Texas [Mr. WRIGHT] and my other colleagues from Texas to wish a very happy return to Texas for the Honorable and Mrs. Fritz Lanham. They have chosen to make Austin, my own hometown, their home in Texas. I know they will find many friends and will enjoy themselves immensely.

It was not my privilege to serve in the House with the Honorable Fritz Lanham since he chose to retire voluntarily from distinguished public service in the House 2 years prior to the time I came to Congress. At the same time, as a Texan I already knew of the fine public record he had achieved and of the esteem in which he was held not only by his colleagues in the Congress but by the people of Texas.

Others have already referred in detail to the splendid public service he rendered as a Member of this House not only to the people who chose to elect and reelect him but also to those of the Nation.

I recall that Mr. Rayburn, the late, beloved Speaker thought highly of Mr. and Mrs. Lanham. Mr. Rayburn referred to them often as his beloved friends. I remember him talking about Mr. Lanham as a "sweet" man, as a "correct gentleman"—one who conducted himself properly wherever he appeared.

Mrs. Thornberry, the children, and I consider Fritz and Hazel Lanham as close, good friends. We are delighted that in leaving the Washington scene they have chosen to make their home in Austin. Austin will be a better city because of their presence.

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

Mr. WRIGHT. I am glad to yield to the gentleman from Texas [Mr. YOUNG].

Mr. YOUNG. Mr. Speaker, I want to thank the gentleman from Texas [Mr. WRIGHT] for making this time available to pay tribute to one of the truly great living Americans. I was not privileged to know the Honorable Fritz Lanham as a colleague when he served in the House. My acquaintance with him has been limited to the period since his service in the House and since my arrival here in Washington.

I want to say that I have never found a more kindly gentleman or a more understanding gentleman, nor one who afforded more pleasure to the people that he knew and who had the privilege of being around him.

It is certainly understandable that the Honorable Fritz Lanham would see fit to favor his home State with some of his time. I want to join my colleagues in the House in expressing my admiration for him.

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

Mr. WRIGHT. I will be glad to yield to my distinguished colleague, the gentleman from Texas [Mr. ROGERS].

Mr. ROGERS of Texas. I want to commend the gentleman from Tarrant County for getting this time to pay such a due tribute to one of our former Members, and a man who has remained in Washington after he terminated his service in the Congress.

I have known Fritz for many years, and his lovely wife, Hazel. I think it is certainly Washington's loss that these fine people have decided to return home. Fritz was a man whom we would look upon as a true American from every standpoint. He was always so very welcome in my office when he came by to visit about the things that are going on in our country and to reassure me that it was still the great country that it was when he first came to Washington. I think he valued his service in Congress above everything else. He felt that it was an experience that few people had the opportunity to enjoy.

I just hate to see Fritz and Hazel leave but I wish them well, as I know the others do.

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

Mr. WRIGHT. I am happy to yield to my distinguished colleague [Mr. KILGORE].

Mr. KILGORE. Mr. Speaker, the career of the Honorable Fritz G. Lanham must surely be an inspiration to all Members of this House—and, of course, especially to Texas Members. Even those of us who came here too recently to have served with him as a colleague, have known and benefited not alone from his wise counsel but from his genius for friendship as well. His voice of experience has always been available to guide us. He has made our interests his interests and in doing so, has continued to perform great service for our State ever since his retirement from Congress.

Fritz Lanham and his gracious lady have for these many years been stalwart figures in the "Texas colony" in Washington. They have given Texas welcome to many, many newcomers and have made them feel immediately at home. The Washington scene will not be the same without them. As they go home to Texas, to Austin, they will carry with them the deep regard and the warm good wishes of all who have known them.

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

Mr. WRIGHT. I will yield with pleasure to our distinguished Speaker.

Mr. McCORMACK. When I arrived as a new Member of the House, one of the mental giants at that time was Fritz Lanham, of Texas. He had been a Member of the House for some 10 years before I was elected and he served for a number of years after I first came here.

Between Fritz Lanham and me there developed a very close friendship, a friendship which I have always valued and which I shall always treasure.

His service in this body was one constructive in nature. He wielded tremendous influence upon the Members of the House because of his profound knowledge of legislation, particularly legislation that came out of the committee on which he served as chairman in such an outstanding manner.

Since his retirement some years ago, and remaining in Washington, our paths have crossed very frequently. I always enjoy meeting my dear friend Fritz Lanham and I have always felt that I was a better man because of the frequent meetings that we had while he was a Member of the House and after he was a Member of the House.

I understand from the remarks made that he is leaving Washington to go back to his home State, to his homeland. I wish for Fritz and his loved ones every future happiness and success. I am glad to be on the floor to join with my distinguished colleague from Texas in sending a message of deep friendship and profound respect to my friend Fritz Lanham.

Mr. WRIGHT. I thank the Speaker for his contribution.

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

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

Mr. KEOGH. Mr. Speaker, I am delighted to join with my distinguished friend from Texas in paying what I know to be a most deserved tribute to a great American and a distinguished former member of this body, the Honorable Fritz Lanham. As our Speaker has just said, Representative Lanham was a great and good and constructive friend to all the new Members who came here during his distinguished and long service. I am fortunate to be able to say that I was included among them. His advice and counsel over the years have been of immeasurable assistance. Also, Mr. Speaker, I should like to point out that I think an aspect of his dedicated service to the House that perhaps might go a bit unnoticed was the great work he did in the field of patents. His work in that field generally and in the legislative functions of it aided immeasurably the technological advances that were so necessary to the preparation for and the conduct of the great World War II, ending in its successful termination.

I join with our friends here in wishing him many years of health and happiness.

Mr. WRIGHT. I thank the gentleman for his contribution.

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

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

Mr. CASEY. I, too, wish to join with my colleagues in paying tribute to a very distinguished Texan and former Member

of this House. I did not have the pleasure of knowing Mr. Lanham until I came here as a Member of this body, but you only had to know Fritz a short time to realize he was not only truly a gentleman and a scholar but a great American.

It is men such as Fritz Lanham who served in this body before us that built the foundation and the building blocks upon which we now continue to build. It is people such as Fritz Lanham who by building this strong foundation have enriched this country and contributed to its greatness and by the same token adding to the distinguished honor and history of this great body.

So it is with pleasure that I wish God's blessings upon Fritz and his lovely wife Hazel, in returning to their native State of Texas to enjoy a well-deserved rest.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. THOMPSON] may extend his remarks at this point.

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

There was no objection.

Mr. THOMPSON of Texas. Mr. Speaker, every now and then I have had occasion to introduce someone to Fritz Lanham. I have always said that of all the Members with whom I have served, Fritz was the best loved. I believe this is true; and that in the memory of those who have known him, there will never be a Member of Congress more loved and recalled with deeper affection.

Fritz was always a very effective Representative, serving well and faithfully his country, his State, and his district. His name will always be recalled with gratitude by his neighbors as the man who contributed so much to their prosperity. The fact that he served in the Congress for 28 years, and retired voluntarily, tells an important part of Fritz's life story.

We, who knew him well, have missed him in these halls. We have been glad that he has remained in Washington, and that we have seen him and advised with him from time to time. Now we learn with regret that he is returning to Texas. We do not begrudge him a life in more quiet and peaceful surroundings, but we shall miss the occasional visits we have enjoyed with him. We shall remember him always. Our lives will be richer because we have known him.

Mr. BECKWORTH. Mr. Speaker, it was my privilege to serve a number of years in Congress with Hon. Fritz Lanham. In my opinion he was an ideal legislator in every respect. He was unexcelled in effectiveness and was trusted because he was trustworthy. I join his many friends in expressing my regret Fritz is ill. As he and his good wife, Hazel go to Texas, it is my hope and my prayer that he will rapidly recover his health and that he and Hazel will enjoy much happiness in their native State where they are universally loved and respected.

Mr. TEAGUE of Texas. Mr. Speaker, I rise to pay tribute, along with my Texas colleagues, to the Honorable Fritz Lanham, of Fort Worth, Tex., who served in this body with distinction from 1919 to 1947. Unfortunately, I was not as privileged as some of the Texas delegation to serve along with this illustrious gentleman; but on the fortunate side got to know him quite well during his 16 years with Trinity River Improvement Association which he so ably represented here in Washington.

I think it is entirely fitting that Fritz receive his floral tributes from this great body which he served so well. Fritz was always ready and willing to lend a helping hand, and I know he was of great help to me during my freshman years in the House of Representatives. His advice and wise counsel on matters in which he was well versed were graciously accepted. Mr. Speaker, I know that all in this Congress who were privileged to know Fritz wish he and his lovely wife well in his coming years of a well-earned retirement.

GENERAL LEAVE TO EXTEND

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on this subject at this point in the RECORD.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

AN OECD PARLIAMENTARY CONFERENCE COULD HELP BUILD FREE WORLD

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Wisconsin [Mr. REUSS] is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, we have entered a period in which the unity of the free world is threatened by new divisive forces in military, political and economic affairs.

Yet at no time in the history of man has unity and cooperation among nations and peoples been more important or promised greater benefits. Developments in communications, transportation, agriculture and industrial production alike offer a rich harvest in better standards of living throughout the free world if the nations—and particularly the powerful developed states—will work together to garner it. At the same time, the growing split between Moscow and Peiping offers the free world the best opportunity in years for effective, cooperative, peaceful action.

The perils of national egotism and attempts at autarchy demand ceaseless efforts to strengthen the humble beginnings of a free world community. We must, therefore, take new steps to promote unity and cooperation. In the fields of trade, aid and payments especially there is much to be done together.

One action which, I believe, would make a significant contribution to the growth of the free world community would be the establishment of a Parliamentary Conference of the members of the Organization for Economic Cooperation and Development.

There are many other steps which need to be taken to strengthen free world unity. But a Parliamentary Conference is one that can be taken now.

WHAT THE OECD DOES

The Organization for Economic Cooperation and Development started life on September 30, 1961. Its 20 members are the United States, Canada, France, Germany, Belgium, the Netherlands, Luxembourg, Italy, United Kingdom, Sweden, Norway, Denmark, Portugal, Austria, Switzerland, Ireland, Iceland, Greece, Turkey, and Spain. Japan is now associated with the OECD as a member of its Development Assistance Committee.

With a little leeway of definition in one or two cases, these comprise the developed countries of the free world.

The OECD is proving a workable forum for joint action by its members in the vital fields of world trade, aid for developing areas, strengthening the international monetary system, and promoting policies designed to foster in each country maximum employment, economic growth, and price stability. A list of OECD's eight permanent committees well indicates the breadth of its international interests: Scientific Affairs, Economics, Trade and Payments, Development, Manpower and Social Affairs, Industry, Agriculture, and Nuclear Energy.

Indeed, the business of OECD is about as broad as the business of the free world, with the single exception of military affairs, which are deliberately excepted from OECD's charter because the organization includes neutrals such as Austria, Sweden, and Switzerland.

But OECD lacks a consultative body made up of parliamentarians from its member countries.

THE EXPLORATORY RESOLUTIONS

OECD's Secretary-General, Thorkil Kristansen, in June 1962 proposed that its member governments convene a Parliamentary Conference.

In order to provide for such a Parliamentary Conference, I have introduced House Concurrent Resolution 425, 87th Congress, on February 19, 1962; and House Concurrent Resolution 87, 88th Congress, on February 7, 1963. These identical resolutions express the sense of Congress that an OECD Parliamentary Conference be established "to be composed of representatives of the parliaments of the member countries who shall meet jointly for discussion of the aims of the Organization and methods of achieving them," and that "the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs shall establish subcommittees for the purpose of jointly exploring with appropriate officials of the U.S. Government, the Organization for Economic Cooperation and Development, and with members of the parliaments of the OECD nations, the desirability and feasibility of establishing an OECD Parliamentary Conference."

The State Department has not issued a report on these resolutions, nor has the House Committee on Foreign Affairs, to which the resolutions have been referred, scheduled hearings on them.

HOW A PARLIAMENTARY CONFERENCE WOULD HELP

An OECD Parliamentary Conference, in which legislators from member nations would meet at least once a year to debate OECD business, and to advise the OECD and its member governments of its deliberations and resolutions, could serve to strengthen OECD and the free world in many ways:

First. By causing national legislators to focus their attention on world problems: National legislators tend to be preoccupied with domestic problems and to consider international problems from a national viewpoint. A Parliamentary Conference would cause legislators to think about international problems and to think about policies to deal with them in terms of their effects in all the member countries.

The legislators' understanding of the problems and needs of other countries would be increased. This increased understanding could be transmitted throughout the parliament to which they belong.

Second. By giving the U.S. Congress an opportunity to participate in the formulation of policies which it may later be asked to approve: While the Cabinet members and Ministers who attend official OECD meetings as delegates from Europe and Canada are almost always members of their nation's legislatures, our delegates are not. Yet programs which the OECD may produce are highly likely to require later congressional approval—a tax cut to accelerate growth, reciprocal tariff-cutting legislation, an international payments agreement, long-term arrangements for sharing international aid. A Parliamentary Conference would enable Members of Congress, in the late Senator Vandenberg's phrase, to participate in the takeoff as well as in the forced landing.

Third. By educating the public in member countries: So far, OECD has tended to operate to a large extent behind closed doors. Even where the sessions are public, they tend to take on a formalized character which dulls public interest. Just as debate in the U.S. Congress can enhance public awareness in this country, so OECD parliamentary debate could do an educational job in the larger constituency.

Fourth. By promoting cooperative action by member governments: The increased understanding of parliamentarians and of the public should result in greater willingness of governments to seek cooperative solutions to OECD problems. But the Parliamentary Conference will be beneficial not only in creating a greater disposition to take mutually advantageous solutions to common problems. It may also be able to formulate the substance of the solutions in the give and take of debate between skilled legislators and politicians. Some current problems to which the imagination, insight and experience of the OECD parliamentarians might be devoted are lagging growth and excessive unemployment in the United States and the United Kingdom, protective practices by the Common Market and others that are endangering expansion of world trade, the unstable and inadequate system of international payments, and the European contribution to development aid. Even if the parliamentarians were not to make any valuable recommendation, their debate might spur the member governments to take appropriate action.

Fifth. By bringing the OECD bureaucracy in touch with elected representatives of the people: Like some other international organizations, the OECD is run by men who are responsible to the electorates of their country only very remotely. Legislators, on the other hand, are reminded of the needs and views of people by the necessity of running for office every so often. The technocrats and bureaucrats will find their work helped by contact with elected officials through the Parliamentary Conference.

HOW TO AVOID DUPLICATION?

A difficult question concerning an OECD Parliamentary Conference is that of duplication. Will not such a Parliamentary Conference merely add another burden to already overworked legislators, particularly American Congressmen? Will not such a Conference merely add to the already costly paraphernalia of international organization?

I believe that a Parliamentary Conference, properly created, can avoid duplication rather than produce duplication.

First, we need to look at the interparliamentary groups which now exist. There are at least nine:

First. The Interparliamentary Union, founded in 1889. Its membership has grown from 9 nations to more than 80 today. Incidentally, it is the only parliamentary group which includes members from both sides of the Iron Curtain, including the United States and the U.S.S.R. It meets annually in the capital of one of its members. Its most recent meeting was in April 1963, at Lausanne, Switzerland. The U.S. group is restricted by law to 18, 9 each from the Senate and the House. The Union's aim is to further better relations through study of international law and organization, reduction of armaments, economic problems, intercultural relations, social questions, and representative government. It is represented on the United Nations Economic and Social Council. An American Republics Branch of the Interparliamentary Union also meets annually, next year in the United States.

Second. Consultative Assembly of the Council of Europe, founded in 1949. Its 16 members are the same as the 20 members of the OECD, less the United States, Canada, Spain, and Portugal. Spain is associated with the Council of Europe for cultural purposes. The other organ of the Council of Europe, the Committee of Ministers, has not achieved much significance. But the Consultative Assembly has become an important forum for debating European questions and obtaining governmental action on agreed conclusions.

The 135 members of the Consultative Assembly are appointed by their national parliaments, rather than directly elected. The Assembly meets once a year at Strasbourg, France, for not more than a month. Recommendations may be made to the Committee of Ministers, or to member countries, by a two-thirds majority of members present. Debate has covered all matters of common interest to the members other than national defense. It has proposed conventions, which have generally been ratified by members, with respect to human rights, social security, patents, coordination of university requirements, extradition, movement of persons, blood bank exchange, television programs, refugee visas.

The Consultative Assembly, by recommendations of April 29, 1960, March 3, 1961, and September 25, 1962, proposed that it become the parliamentary arm of the OECD, with measures to tie in the four OECD members which are not members of the Consultative Assembly—the United States, Canada, Spain, and Portugal. On February 1, 1962, the Consultative Assembly and the OECD agreed that the present 16-member Assembly would debate OECD business, with OECD to cooperate by replying to questions presented by the Assembly. By resolution of January 17, 1963, the Consultative Assembly appointed a delegation empowered to:

> Approach the Committee of Ministers and the Governments of member states in order to persuade these Governments to enter into negotiations with the United States and Canadian Governments with a view to carrying into effect the arrangements proposed by the Assembly; and to establish later, if necessary, direct contacts with the American Congress and the Canadian Parliament with a view to contributing to the conclusion of an agreement and to its practical application.

The Consultative Assembly is hampered because its membership is primarily European rather than free world, and because there is no real organization to which it can attach itself.

Third. Nordic Council, founded in 1953. The 53 members are parliamentarians from Norway, Sweden, Denmark, and Finland.

Fourth. Western European Union Assembly, founded in 1954. This contains 89 delegates from the 7-country Western European Union, consisting of Belgium, the Netherlands, Luxembourg, France, Italy, Germany, and the United Kingdom. Its orientation is largely defense, and it is now practically superseded by NATO and the Council of Europe.

Fifth. NATO Parliamentarians Conference, founded in 1955. This includes 180 delegates from the 15-member NATO—Belgium, the Netherlands, Luxembourg, France, Italy, Germany, the United Kingdom, Denmark, Greece, Iceland, Norway, Turkey, Portugal, the United States, and Canada. This is the only group of parliamentarians acting on an Atlantic basis. It has met annually in Paris since 1955. Its regular working committees give an idea of its range of interest—political, military, scientific and technical, economic, and information. It is quasi-official, meeting at the invitation of the NATO Secretariat, and without formal status. The Atlantic Convention of the 15 NATO nations, an unofficial group of private citizens, in the "Declaration of Paris," January 1962, recommended that the NATO

Parliamentarians Conference be developed into a consultative "Atlantic Assembly." The NATO Parliamentarians Conference, on November 16, 1962, asked its political committee to study the proposal.

It should be noted that the NATO Parliamentarians Conference was first suggested in 1954 by Norwegian and Canadian parliamentarians in order to get NATO action in the economic field. The creation of the OECD in 1961 has tended to supersede most of NATO's economic jurisdiction.

Sixth. Benelux Consultative Parliamentary Council, founded in 1957. This consists of representatives of each of the three members of the Benelux Customs Union: Belgium, the Netherlands, and Luxembourg. It has 49 delegates.

Seventh. European Parliamentary Assembly of the European Economic Community, founded in 1958. Its 142 delegates represent the 6 countries of the EEC—Belgium, the Netherlands, Luxembourg, France, Italy, and Germany. It serves the Coal-Steel Community, the Common Market, and Euratom. Though its members are presently named by the national parliaments, it has been instructed to draw up proposals for direct election. It has the unique power to vote a censure, by a two-thirds majority, of the EEC's Commission, thus causing the Commission to resign. This power, however, has not yet been exercised.

Eighth. Canada-United States Interparliamentary Group, founded in 1959. Its U.S. membership is 24, half from the Senate and half from the House. It meets annually.

Ninth. Mexico-United States Interparliamentary Group, founded in 1960. U.S. membership is 24, half from each body. It meets annually.

Tenth. In addition, the United States sends legislative observers each year to meetings of the British Commonwealth Association of Parliamentarians. Members of the British and Canadian Parliaments meet annually with representatives of the U.S. Congress. Last year a week-long series of meetings between members of the French Chamber of Deputies and U.S. representatives was held in Washington. Informal meetings between United States and West German parliamentarians have also been held several times since 1960.

HOW THE PARLIAMENTARY CONFERENCE WOULD WORK

Out of this welter of organizations emerges the possibility of an OECD Parliamentary Conference which would serve to strengthen the free world without creating duplicating organizations.

Such an OECD Parliamentary Conference might well consist of around 100 delegates, roughly proportioned to the populations of the 20 member countries, with at least 1 delegate from each country. Delegates should all be legislators, selected by their own legislative bodies. Delegates would vote according to their own consciences, rather than by country or bloc. The conference needs but one chamber. Regular annual meetings, in late autumn, of about a week sound right. The Conference would be empowered to debate everything within OECD's competence; to pass resolutions for the attention of OECD and its member countries; to obtain information and reports from the OECD. The OECD Secretariat would be responsible for the Conference's housekeeping. If, on the other hand, its 15 members want to continue the NATO Conference, they could readily provide that their delegations to the OECD Parliamentary Conference constitute themselves NATO parliamentarians for debate on military affairs, directly after the OECD Parliamentary Conference has adjourned.

A further opportunity for avoiding duplication appears in the Canada-United States Interparliamentary Group. This was set up in 1959 because there was then no interparliamentary group such as the proposed OECD Parliamentary Conference. The necessity of the Canada-United States Interparliamentary Group could be reviewed if such an OECD Parliamentary Conference were created.

Thus, as many as three existing parliamentary organizations—the Council of Europe's Consultative Assembly, the NATO Parliamentarians Conference, and the Canada-United States Interparliamentary Group—could be consolidated into one OECD Parliamentary Group.

The remaining interparliamentary groups would still have valid reasons for their existence. The IPU would continue to represent 80 nations, developed and developing. The Mexico-United States Interparliamentary Group would continue its specialized purpose. The European Parliamentary Assembly of the EEC would continue its statutory role.

NARROW REGIONAL GROUPINGS UNION

Finally, we come to the question of the composition of this new parliamentary conference, originally and in the future. A membership from OECD nations seems right for several reasons:

First. The new group will have a much greater chance of success if it is attached to a going organization.

Second. The main areas of concern of the OECD are those that most require international consideration and debate among parliamentarians. The membership of the OECD is, more or less, comprised of the nations most vitally interested in questions of trade, payments, and the granting of aid.

Third. The dangers of a group based upon regionalism are avoided. A regional group, such as an "Atlantic Assembly," is bound to result in exclusions from the organization. These exclusions are sure to appear arbitrary and discriminatory. With an OECD group on the other hand, as nations outside the OECD become developed in their economies and parliamentary institutions they would be able to join and take part in the Parliamentary Conference. For example, Japan, Australia, and New Zealand should be immediate prospects for membership.

Creating a Parliamentary Conference could have an incidental rejuvenating effect on parliamentary institutions throughout the free world. Demoocratic legislatures everywhere are finding the going rough today, and their members are asking why. An OECD Parliamentary Conference could institutionalize at the international level the ancient parliamentary forms of debate and resolution. And the very act of setting up such a Parliamentary Conference would be the deed of the constituent parliaments themselves.

It is encouraging that the U.S. Congress has already contributed leadership to the search for a parliamentary institution for the free world. Among others, I think of the invaluable contributions of the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. KEFAUVER], the gentleman from Ohio [Mr. HAYS] and the gentleman from New York [Mr. LINDSAY].

Mr. Speaker, the time for measures to help draw the free world together is now. I hope that the Congress will quickly make clear that the United States is ready and willing to join in an OECD Parliamentary Conference of the free world.

POLITICAL FUND RAISING REFORM

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Michigan [Mr. STAEBLER] is recognized for 10 minutes.

Mr. STAEBLER. Mr. Speaker, one of the more difficult problems facing our political parties today is that of encouraging and maintaining broad-based political participation; of building a grassroots understanding and interest among our citizenry in the political process.

There is a correlation between this, I believe, and the widespread concern over reform of political procedures.

You cannot accomplish one without the other.

We in Congress this year have an opportunity to take positive action toward political reform which, in turn, will have the additional benefit of broadening the political base of our parties.

I am referring to the several recommendations of the President's Commission on Campaign Costs which are now before the Congress.

The Commission, a 9-member bipartisan group appointed in 1961 by the President, made 12 unanimous recommendations relative to political party financing and the Presidential campaign.

The main thrust of the Commission's recommendations was that we need to find a positive way to encourage political contributions while recognizing that prohibitions and other regulations are not adequate.

Four of the Commission's recommendations have been introduced in Congress.

Two are proposals to suspend the equal time broadcasting requirements for Presidential candidates and to appropriate Federal money to cover preinauguration expenses of the President-elect.

The remaining two, sent to Congress April 30 by President Kennedy, would step up the reporting requirements in political fund raising and give tax benefits to campaign contributors to encourage broader citizen participation in political financing.

The President has proposed that an individual be allowed to take an income

tax credit of 50 percent of his contributions up to a maximum of $10 annually.

An alternative benefit, which would be available for larger contributors, would allow deduction of up to $500 for political contributions.

In his letter of transmittal the President said:

Our present system of financing political campaigns is deficient in that it does not insure that candidates, or the parties they represent, will have sufficient funds to provide adequate exposure to the electorate, and it has not effectively encouraged small contributions from a very large number of individuals.

The President made the further point that his proposal would reduce the candidates' dependency on the large contributor, a dependency which is at the least unhealthy.

Such a shift of power from a small number of large contributors to a large number of small contributors would be welcome. It would lessen the danger of corruption.

It would increase the responsiveness of the party and the responsibility of the party to a larger public.

Encouraging a larger number of small contributors means encouraging interest and participation by a larger number of people.

A person who contributes becomes much more attached to political development and is much more likely to take part in politics personally.

The national committees of both parties recognize this.

About a third of our States presently are utilizing paid memberships with small annual dues, as a device to build the party's base and wider interest.

The reform proposals before us now should not be taken lightly, for they are of vital concern to our political institutions.

There are two broad choices open to those who are interested in political reform.

One alternative follows the road of regulation and increased control. We have already traveled some distance in this direction, but not far enough to be effective.

The other alternative is to work for improvement in politics by encouraging good practices and procedures. In campaign financing this means the encouragement of more small and moderate contributions.

It means an increase in the number of contributors and the removal of the hazards that arise from the dependence on a few large contributors.

Neither of the two great political parties is satisfied with present fundraising procedures.

If there is any candidate for public office who is satisfied with the manner in which his campaign funds are raised, I have not met him.

Political fundraising is the target of widespread criticism alike from those who take part in politics and those who stand on the sidelines and comment.

We have an opportunity to take action to improve our fundraising machinery. We should act this year because it is difficult to make changes during a presidential election year.

The President's Commission, of which I was honored to be a member, included individuals who have actively engaged in fundraising for the two parties.

Its chairman was Alexander Heard, now chancellor of Vanderbilt University, and the country's foremost authority on money in politics.

In their report to the President, Mr. Heard and the members made the point that a chronic difficulty in maintaining adequate support of political parties long has been "the lurking suspicion that contributing to political parties is somehow a shoddy business."

The proposals now before Congress would do much to help change this image.

At the same time they would help to promote active and widespread participation.

This, after all, is the key to successful democracy.

RUSSIA FIGURES TO STARVE THE U.N.

Mr. MORSE. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. DERWINSKI] may extend his remarks at this point in the RECORD.

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

There was no objection.

Mr. DERWINSKI. Mr. Speaker, recent events indicate the Soviets are up to their old tricks of fomenting difficulty in the U.N. This is a clear extension of their behavior pattern to use that body to suit their purposes, quite in contrast to our apparent policy of completely subverting American interests to some vague international concept.

The latest Russian manipulations are effectively described and exposed by an editorial in the Chicago Daily News of Friday, May 24, which in view of its timely interest, I place into the RECORD at this point:

RUSSIA FIGURES TO STARVE THE U.N.

The United Nations is in sorry shape financially, and Russia couldn't be more pleased. Trouble here, as elsewhere, offers the Soviets another opportunity to lean on the wrecking bar.

Henceforth, the Soviet delegate announced, Russia will refuse to pay its share of any U.N. expenses "unlawfully" voted by the General Assembly. In free translation, this means that Russia will pay only what it pleases when it pleases toward U.N. expenses, and nothing at all toward the huge deficit incurred by U.N. peace forces in the Congo, the Middle East, and Korea.

Although Russia and the other Communist countries had already refused to pay toward the Congo operation, the new doctrine is broader. It worsens the financial crisis this special U.N. session was called to solve. The squeeze is intensified by France's refusal to share the Congo costs and the reluctance of some others among the 111-member nations to pay a fair share of anything.

Last year's decision by the World Court upholding the legality of peacekeeping assessments has thus far had no effect on the delinquencies. That showdown won't come until next year, when Russia's right to a U.N. vote can be called into question.

The United States has served notice it will not continue to pay for more than its fair share of U.N. expenses. Russia's new edict will put that resolution to a stern test—and there is small doubt that Russia intended it that way.

Without access to extra funds from the United States, the United Nations could be restricted to performing only those functions of which Russia approves. The Russian notice amounts to the exercise of a financial veto in the General Assembly to match the legal veto in the Security Council.

Nevertheless, we hope the administration sticks to its guns and pays only what it is legally and morally obligated to pay. There is no other way of ascertaining the future of the United Nations. For it has no future without the continued faith of its members, demonstrated by their willingness to carry a fair share of the load.

THAT STEEL MILL AGAIN

Mr. MORSE. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. DERWINSKI] may extend his remarks at this point in the RECORD and include extraneous matter.

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

There was no objection.

Mr. DERWINSKI. Mr. Speaker, the Foreign Affairs Committee of the House is proceeding steadily on hearings relative to the foreign aid legislative authorization for fiscal 1964. One of the controversial items in our international financial manipulations is the administration-supported request for a low-interest loan of over one-half billion dollars to build a Government-owned and operated steel plant in India. The criticism stems from the socialistic nature of this operation and its direct repudiation of our economic principles. The subject is most dramatically discussed by the Chicago Sun-Times in an editorial of May 25, calling attention to the Clay committee guidelines in this field. This editorial is extremely timely since the issue will soon be before us and the House will have an opportunity to strike a blow for free enterprise against socialism. The editorial follows:

THAT STEEL MILL AGAIN

In a year when all foreign aid is under the microscope of public attention the administration seems determined to ignore the sound recommendations of the Clay report and extend to India the largest single loan ever made for any one project.

In a report to President Kennedy on March 22 a special foreign aid study committee headed by Gen. Lucius D. Clay made note of the fact that the U.S. foreign aid program needed some substantial tightening up and sharpened objectives in terms of our national interests. The report takes note of the great value of "properly conceived and administered" foreign aid programs and it also notes, in passing, that "we are indeed attempting too much for too many—a higher quality and reduced quantity of our diffuse aid effort in certain countries could accomplish more."

The Clay committee set down careful guidelines for foreign aid spending. Among these is one guide that is drawing much fire from the free thinkers in Washington. It is as follows:

"We believe the United States should not aid a foreign government in projects establishing government-owned industrial and commercial enterprises which compete with existing private endeavors. While we realize that in aiding foreign countries we cannot insist upon the establishment of our own

economic system, despite its remarkable success and progress, we should not extend aid which is inconsistent with our beliefs, democratic tradition, and knowledge of economic organization and consequences. Moreover, the observation of countless instances of politically operated, heavily subsidized, and carefully protected inefficient state enterprises in less-developed countries makes us gravely doubt the value of such undertakings in the economic lives of these nations."

India has requested an initial loan of $512 million to build a government owned and operated steel plant at Bokaro, a request we have commented on in previous editorials.

The administration is greatly in favor of granting this loan—despite the fact that the conditions fly in the face of the recommendations of the Clay report. The economic hazards have been commented on fully—suffice it to say that a nonpartisan committee of steel experts submitted a report on the feasibility of this proposed steel mill that bristled with doubts.

Broadly speaking, the opposite of private enterprise and individual capitalism is state ownership, state production, and state distribution. Or, if you will, Marxism. This is precisely the status of the proposed steel mill in India.

The present Ambassador to India, J. Kenneth Galbraith, and the Ambassador-to-be to India, Chester Bowles, both advocate the granting of this loan under this concept of state ownership and operation. The administration is in accord with their thinking and is doing all it can to allay the fears of India that the loan might not come through. As previously noted on this page the Congress cannot stop the President from granting the loan—but it can take action to limit all aid to India to this one loan, a measure India would greatly fear.

The argument advanced by Chester Bowles that India is short of steel is specious; our own steel capacity is not extended, nor is the steel capacity of the free world countries where the free enterprise is working.

It would be far better to loan the necessary money to India so she could buy steel in the free world market than to endorse, with dollars, a philosophy dedicated to the overthrow of our own way of life.

WOOL IMPORT CRISIS

Mr. MORSE. Mr. Speaker, I ask unanimous consent that the gentleman from New Hampshire [Mr. CLEVELAND] may extend his remarks at this point in the RECORD.

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

There was no objection.

Mr. CLEVELAND. Mr. Speaker, wool imports continue to rise. Jobs are being lost. In spite of repeated assurances to the contrary by President Kennedy nothing is being done to stabilize wool imports as was done for cotton textiles in 1961.

The accute problem now faced by woolen textile plants is well stated by Fulton Rindge, Jr., who spoke recently before Senator PASTORE'S special subcommittee. The temporary shutdown of two of his plants should be noted. Actual and announced liquidations of woolen and worsted mills—25 in 10 States since January 1, 1962—are more dramatic and make the headlines. But partial shutdowns and temporary closings are just as tough on the workers and communities. They must live in the shadow of constant and frustrating uncertainty and fear created by the threat of ultimate liquidation and economic catastrophy.

Mr. Rindge's statement is as follows:

My name is Fulton Rindge, Jr. I am chairman of the Wool Manufacturers Council of the Northern Textile Association. I am also chief executive officer of three woolen textile plants in Ware, Mass., and one plant in Rochester, N.H., with total employees in excess of 1,000 people.

During the period from early December through late January, two of these plants were closed. The decision to reopen was based in part by a promise made by the President in late January to you and five other Senators, that something would be done to minimize the disruptive effects that imported fabrics have caused in the woolen and worsted marketplace. As of this time, I can see that nothing has been done by our Government to fulfill this promise. I, therefore, question our decision in having reopened these plants. As the statistics presented to you indicate, imports are consuming a larger and larger share of our market. They have not only cost us many customers, but generally have tended to depress prices on the fabrics we are currently selling.

I have in my possession cloth from Italy which would be impossible for us to make and label properly for anywhere near the landed price for this product. This is just one of many examples of the cheap imported fabrics that are flooding the New York market.

I hope you can bring about action on the President's program promptly and before it is too late.

ESTABLISHING CENTRAL INFORMATION AGENCY REGARDING THE LEVELS OF STRONTIUM 90 AND IODINE 131

Mr. MORSE. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. LANGEN] may extend his remarks at this point in the RECORD and include extraneous matter.

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

There was no objection.

Mr. LANGEN. Mr. Speaker, the 1963 Minnesota Legislature, by resolution, is calling our attention to a pertinent problem facing that great State and other States across the Nation. I herewith submit that resolution for your careful consideration:

RESOLUTION 6

Resolution memorializing Congress to establish a Central Information Agency regarding the levels of strontium 90 and iodine 131

Whereas, atomic testing has made the levels of strontium 90 and iodine 131 a matter of national concern; and

Whereas, the possible effect of large amounts of strontium 90 and iodine 131 on children and expectant mothers makes it imperative that a source of information on such matters be established to furnish such information to farmers, doctors, and others concerned with the problem; and

Whereas there is evidence that many Minnesota farmers received information different from that received by farmers in our neighboring States during 1962, which resulted in Minnesota farmers going to considerable expense to supply dry food for their milk producing cattle, while the same was not requested of farmers in neighboring States: Now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That a Central Information Agency established by the Federal Government to furnish information regarding the levels of strontium 90 and iodine 131, be designated as the sole authority to establish standards for fallout and other radio-contaminants of the environment as they relate to health and safety, without singling out the word "milk" in the terminology: Be it further

Resolved, That the Secretary of State send copies of this resolution to the President of the United States, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and all Members of the Minnesota congressional delegation to Congress.

L. L. DUXBURGH,
Speaker of the House of Representatives.
A. W. KEITH,
President of the Senate.
G. H. LEAHY,
Chief Clerk, House of Representatives.

Approved May 6, 1963.

KARL F. ROLVAAG,
Governor of the State of Minnesota.

Filed May 6, 1963.

JOSEPH L. DONOVAN,
Secretary of the State of Minnesota.

UNEMPLOYMENT IN THE IRON ORE INDUSTRY IN MINNESOTA

Mr. MORSE. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. LANGEN] may extend his remarks at this point in the RECORD.

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

There was no objection.

Mr. LANGEN. Mr. Speaker, the 1963 Minnesota Legislature has passed a resolution relating to unemployment in the iron ore industry in that great State. It is a worthy resolution and I hope every Member of Congress will study it carefully. It is as follows:

RESOLUTION 7

Resolution memorializing the Congress of the United States to end the causes of unemployment in the iron ore industry in the State of Minnesota

Whereas imports of iron ore produced in areas outside the United States are supplanting in U.S. markets ore produced in mines located in the United States, resulting in the unemployment of American iron miners;

Whereas sale by integrated steel companies of iron ore mined by them in foreign countries, and not needed for their steel production, supplants ore produced by American independent, nonintegrated ore producers, endangering the survival in business of such independent producers, and further resulting in unemployment of American iron miners;

Whereas agencies of the Federal Government have been giving financial assistance to development of iron ore mining in areas outside the United States, further resulting in unemployment of American iron miners;

Whereas shipping rates add to the cost of marketing Minnesota iron ore, which may affect unemployment of American iron miners;

Whereas the widespread unemployment of American iron miners, and the hardship such unemployment raises, requires immediate Federal action: Therefore, be it

Resolved by the Legislature of the State of Minnesota, That the Congress of the United States is requested to take all necessary steps to stop the further unemployment of American iron miners, including:

1. Restricting importation of foreign ores, in a manner similar to restrictions now imposed on foreign petroleum, to a level which would supplement but not supplant domestic production in U.S. markets;

2. Preventing integrated steel companies from selling their excess incremental iron ore mined in foreign countries;

3. Ending financial assistance by agencies of the Federal Government for development of iron mining in foreign countries;

4. Determining the effect of transportation rates on the sale of Minnesota iron ore; be it further

Resolved, That the Secretary of State be instructed to transmit copies of this resolution to the President of the Senate, the Speaker of the House of Representatives, and to each Member of Congress from this State.

L. W. DUXBURGH,
Speaker of the House of Representatives.
A. W. KEITH,
President of the Senate.

Approved May 16, 1963.

KARL F. ROLUAAY,
Governor of the State of Minnesota.

Filed May 16, 1963.

JOSEPH L. DONOVAN,
Secretary of the State of Minnesota.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. REUSS, for 30 minutes, today; and to revise and extend his remarks.

Mr. STAEBLER, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. ROGERS of Colorado and to include a statement.

Mr. HUTCHINSON.

Mr. ANDERSON.

Mr. BURKHALTER and to include extraneous matter.

Mr. BYRNES of Wisconsin and to include extraneous matter.

(The following Members (at the request of Mr. MORSE) and to include extraneous matter:)

Mr. ALGER.

Mr. FINO.

Mr. FULTON of Pennsylvania in two instances.

Mr. PELLY.

(The following Members (at the request of Mr. LIBONATI) and to include extraneous matter:)

Mr. ST. ONGE in two instances.

Mr. CHELF in two instances.

Mr. MONAGAN.

ADJOURNMENT

Mr. LIBONATI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 45 minutes p.m.) the House adjourned until tomorrow, Tuesday, May 28, 1963, 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:

851. A communication from the President of the United States, transmitting the report of the National Capital Transportation Agency entitled "Recommendations for Transportation in the National Capital Region," and its "Summary Report on the Transit Development Program," and a draft of a proposed bill entitled "A bill to authorize the prosecution of a transit development program for the National Capital region"; to the Committee on the District of Columbia.

852. A letter from the Secretary of the Air Force, transmitting draft of a proposed bill entitled "A bill to improve the active duty promotion opportunity of Air Force officers from the grade of major to the grade of lieutenant colonel"; to the Committee on Armed Services.

853. A letter from the Director, Federal Mediation and Conciliation Service, transmitting the 15th Annual Report of the Federal Mediation and Conciliation Service for the fiscal year ending June 30, 1962; to the Committee on Education and Labor.

854. A letter from the Comptroller General of the United States, transmitting a report on the audit of the custodianship functions of the Office of the Treasurer of the United States, Treasury Department, for the fiscal year ended June 30, 1962; to the Committee on Government Operations.

855. A letter from the Chairman, Federal Power Commission, transmitting a draft of a proposed bill entitled "A bill to amend section 12 of the Natural Gas Act with respect to the issuance of securities for the construction, acquisition, or operation of pipeline facilities"; to the Committee on Interstate and Foreign Commerce.

856. A letter from the executive director, Reserve Officers Association of the United States, transmitting the audit report of the Reserve Officers Association as of March 31, 1963, pursuant to Public Law 595, 81st Congress; to the Committee on the Judiciary.

857. A letter from the Attorney General, transmitting a report relating to the award of the Young American Medals for Bravery and Service for 1961, pursuant to 64 Stat. 397–398; to the Committee on the Judiciary.

858. A letter from the Attorney General, transmitting the annual report of the Attorney General of the United States for the fiscal year ended June 30, 1962; to the Committee on the Judiciary.

859. A letter from the Secretary of Commerce, transmitting the quarterly report of the Maritime Administration of this Department on the activities of the Administration under the Merchant Ship Sales Act of 1946, for the period ending March 31, 1963; to the Committee on Merchant Marine and Fisheries.

860. A letter from the Administrator, Veterans' Administration, transmitting a draft of a proposed bill entitled "A bill to authorize the Administrator of Veterans' Affairs to sell at prices which he determines to be reasonable direct loans made to veterans under chapter 37, title 38, United States Code"; to the Committee on Veterans' Affairs.

861. A letter from the Chairman, U.S. Tariff Commission, transmitting the sixth supplemental report on the tariff classification study made under the provisions of the Tariff Classification Act of 1962; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. VINSON: Committee on Armed Services. H.R. 6500. A bill to authorize certain construction at military installation, and for other purposes; without amendment (Rept. No. 345). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASHMORE: Committee on the Judiciary. H.R. 5907. A bill to amend section 1825 of title 28 of the United States Code to authorize the payment of witness' fees in habeas corpus cases and in proceedings to vacate sentence under section 2255 of title 28, for persons who are authorized to proceed in forma pauperis; with amendment (Rept. No. 346). Referred to the Committee of the Whole House on the State of the Union.

Mr. HARRIS: Committee on Interstate and Foreign Commerce. H.R. 2876. A bill to repeal the Inland Waterways Corporation Act; without amendment (Rept. No. 347). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE 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. FEIGHAN: Committee on the Judiciary. H.R. 2207. A bill for the relief of Francesco Di Giacomo; without amendment (Rept. No. 348). Referred to the Committee of the Whole House.

Mr. POFF: Committee on the Judiciary. H.R. 2789. A bill for the relief of Wilhelmina Ginteburg Schleifer; with amendment (Rept. No. 349). Referred to the Committee of the Whole House.

Mr. CHELF: Committee on the Judiciary. H.R. 6101. A bill for the relief of Arminda P. Viseu; without amendment (Rept. No. 350). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LINDSAY:

H.R. 6595. A bill to amend the act of July 26, 1954, to establish a National Advisory Council on Education; to the Committee on Education and Labor.

By Mrs. GREEN of Oregon:

H.R. 6596. A bill to amend the act of July 26, 1954, to establish a National Advisory Council on Education; to the Committee on Education and Labor.

By Mr. GIAIMO:

H.R. 6597. A bill to amend the act of July 26, 1954, to establish a National Advisory Council on Education; to the Committee on Education and Labor.

By Mr. MORSE:

H.R. 6598. A bill to amend the act of July 26, 1954, to establish a National Advisory Council on Education; to the Committee on Education and Labor.

By Mr. VINSON:

H.R. 6599. A bill to amend title II of the Social Security Act to provide that a child's entitlement to child's insurance benefits shall continue despite his adoption by a great-aunt or great-uncle, the same as it would if he were adopted by a stepparent, grandparent, aunt, or uncle; to the Committee on Ways and Means.

H.R. 6600. A bill to amend title 10, United States Code, with respect to the appointment of the members of the Joint Chiefs of Staff; to the Committee on Armed Services.

By Mr. ASPINALL:

H.R. 6601. A bill to authorize the Secretary of Agriculture to sell certain land in Grand Junction, Colo., and for other purposes; to the Committee on Agriculture.

By Mr. BATES:

H.R. 6602. A bill to amend paragraph 1537(b) of the Tariff Act of 1930 with respect

to certain footwear; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 6603. A bill to establish a Federal policy concerning the termination, limitation, or establishment of business-type operations of the Government which may be conducted in competition with private enterprise, and for other purposes; to the Committee on Government Operations.

By Mr. BOGGS:

H.R. 6604. A bill to amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact mahogany; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT:

H.R. 6605. A bill to amend the Library Services Act to increase the Federal assistance for the improvement of public libraries; to the Committee on Education and Labor.

By Mr. EVINS:

H.R. 6606. A bill to amend the Internal Revenue Code of 1954 with respect to the manufacturers excise tax on mechanical lighters for cigarettes, cigars, and pipes; to the Committee on Ways and Means.

H.R. 6607. A bill to amend the Internal Revenue Code of 1954 to provide more equitable rates for the manufacturers excise tax on mechanical lighters for cigarettes, cigars, and pipes; to the Committee on Ways and Means.

By Mr. FARBSTEIN:

H.R. 6608. A bill to amend section 102 of the Foreign Assistance Act of 1961 to provide that increases in armaments beyond those necessary for defensive purposes shall be taken into account in determining eligibility of foreign countries for assistance from the United States; to the Committee on Foreign Affairs.

H.R. 6609. A bill to amend section 102 of the Foreign Assistance Act of 1961 to provide that increases in armaments beyond those necessary for defensive purposes or possession of weapons of aggression shall be taken into account in determining eligibility of foreign countries for assistance from the United States; to the Committee on Foreign Affairs.

H.R. 6610. A bill to amend section 102 of the Foreign Assistance Act of 1961 to provide that production of or obtaining weapons of aggression shall result in discontinuance of assistance from the United States; to the Committee on Foreign Affairs.

By Mr. HÉBERT:

H.R. 6611. A bill to amend title 10, United States Code, relating to the nomination and selection of candidates for appointment to the Military and Air Force Academies; to the Committee on Armed Services.

By Mr. HOSMER:

H.R. 6612. A bill to provide for continuity and support of study, research, and development of programs for peaceful uses in science, commerce, and other activities related to Antarctica, which shall include, but shall not be limited to, gathering, evaluating, correlating, and dispersing of information and knowledge obtained from exploration, research, and other mediums relating to weather, communications, travel, and other areas of information; also to coordinate Antarctic activities among those agencies of the U.S. Government and private institutions interested in or concerned directly with the promotion, advancement, increase, and diffusion of knowledge of the Antarctic; and to direct and administer U.S. Antarctic programs in the national interest; to the Committee on Interior and Insular Affairs.

By Mr. LESINSKI:

H.R. 6613. A bill to provide for the issuance of a postage stamp in honor of the life and contributions of Henry Ford; to the Committee on Post Office and Civil Service.

By Mr. MILLER of New York:

H.R. 6614. A bill to amend section 1014 of title 18 of the United States Code and for other purposes; to the Committee on the Judiciary.

By Mr. MONAGAN:

H.R. 6615. A bill to amend paragraph 1537(b) of the Tariff Act of 1930 with respect to certain footwear; to the Committee on Ways and Means.

By Mr. ST. ONGE:

H.R. 6616. A bill to provide that a nuclear powered submarine shall be named U.S.S. *Haym Salomon;* to the Committee on Armed Services.

By Mr. SCHWENGEL:

H.R. 6617. A bill to adjust wheat and feed grain production, to establish a cropland retirement program, and for other purposes; to the Committee on Agriculture.

H.R. 6618. A bill to prohibit discrimination in labor union membership and employment in the District of Columbia because of race, religion, color, sex, national origin, or ancestry; to the Committee on the District of Columbia.

By Mr. TAFT:

H.R. 6619. A bill to prohibit discrimination in labor union membership and employment in the District of Columbia because of race, religion, color, sex, national origin, or ancestry; to the Committee on the District of Columbia.

By Mr. THOMPSON of Texas:

H.R. 6620. A bill to permit the State of Texas to obtain social security coverage, under its State agreement entered into pursuant to section 218 of the Social Security Act, for State and local policemen; to the Committee on Ways and Means.

By Mr. TUPPER:

H.R. 6621. A bill relating to domestically produced fishery products; to the Committee on Agriculture.

By Mr. WYMAN:

H.R. 6622. A bill to amend the Soil Conservation and Domestic Allotment Act to prevent the Commodity Credit Corporation from discriminating against any area of the country in the sale or delivery of feed grains; to the Committee on Agriculture.

H.R. 6623. A bill to amend section 6 of the act of April 22, 1908, relating to the liability of railroads to their employees, with respect to certain injunctive powers of State courts; to the Committee on the Judiciary.

By Mr. ASHMORE:

H.J. Res. 452. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. REIFEL:

H.J. Res. 453. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. TAFT:

H.J. Res. 454. Joint resolution to prohibit the Secretary of Agriculture from requiring loyalty pledges of farmer-elected agricultural stabilization and conservation committeemen; to the Committee on Agriculture.

By Mr. KYL:

H. Res. 370. Resolution creating a standing Committee on Small Business in the House of Representatives, and to grant it full authority in certain legislative matters; to the Committee on Rules.

By Mr. YOUNGER:

H. Res. 371. Resolution to create a Select Committee on Fiscal Organization and Procedures of the Congress; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By Mrs. GREEN of Oregon: Memorial on Pacific Northwest Regional Water Research Laboratory; to the Committee on Appropriations.

By the SPEAKER: Memorial of the Legislature of the State of California, memorializing the President and the Congress of the United States to approve the coinage of a 50-cent piece commemorative of the Gettysburg Address; to the Committee on Banking and Currency.

Also, memorial of the Legislature of the State of California, memorializing the President and the Congress of the United States relative to establishment of a Federal veterans hospital in the San Diego area; to the Committee on Veterans' Affairs.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States to amend the Agricultural Adjustment Act of 1938, as amended, to include coffee under the parity payment program; to the Committee on Agriculture.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States relative to the need for a deep-water harbor near Barbers Point, Oahu; to the Committee on Appropriations.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States relative to the utilization of Puunene Airport or other locations on Maui for military purposes; to the Committee on Armed Services.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States relative to requesting the enactment of a Fair Employment Practices Act dealing with discriminatory practices in respect to employment; to the Committee on Education and Labor.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States relative to requesting Congress to take action toward enactment of equal pay for equal work for women legislation; to the Committee on Education and Labor.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States to enact legislation authorizing the Veterans' Administration to contract with any Hawaii hospital on an island where there is no Federal hospital for the hospitalization of veterans resident of the island; to the Committee on Veterans' Affairs.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States relative to requesting the elimination of Federal taxes upon passenger transportation between islands of the State of Hawaii; to the Committee on Ways and Means.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States to consider the possibility of granting tax credit and other tax incentives to employers who hire persons for the purpose of retraining them; to the Committee on Ways and Means.

Also, memorial of the Legislature of the State of Louisiana, memorializing the President and the Congress of the United States relative to the sovereignty of the United States, and to express legislative opposition to certain actions by the State Department and executive branch of the Federal Government; to the Committee on Foreign Affairs.

Also, memorial of the Legislature of the State of Maine, memorializing the President and the Congress of the United States relative to recommending full development of electric power potential of Passamaquoddy Bay and Upper St. John River; to the Committee on Foreign Affairs.

Also, memorial of the Legislature of the State of New Jersey, memorializing the President and the Congress of the United States relative to incorporating or chartering the

Italian American War Veterans of the United States, Inc.; to the Committee on the Judiciary.

Also, memorial of the Legislature of the State of Nevada, memorializing the President and the Congress of the United States relative to amending to statutes governing the jurisdiction of the Federal courts to prevent interference by such courts with the right of States to apportion the members of the legislatures; to the Committee on the Judiciary.

Also, memorial of the Legislature of the State of Nevada, memorializing the President and the Congress of the United States relative to requesting the Federal Bureau of Public Roads of the Department of the Interior to participate in the widening of U.S. 395, in the city of Reno between Arroyo Street and Liberty Street; to the Committee on Public Works.

Also, memorial of the Legislature of the State of Washington, memorializing the President and the Congress of the United States relative to requesting Congress to enact legislation providing for a White House Conference on Education in 1965; to the Committee on Education and Labor.

Also, memorial of the Legislature of the Territory of Guam, memorializing the President and the Congress of the United States relative to requesting the Congress to amend the immigration laws of the United States to permit fewer restrictions on travel for the people of the Northern Marianas Islands between the various islands thereof and Guam; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AYRES:

H.R. 6624. A bill for the relief of Mrs. Concetta Foto Napoli, Salvatore Napoli, Antonina Napoli and Michela Napoli; to the Committee on the Judiciary.

By Mr. CLAUSEN:

H.R. 6625. A bill for the relief of Debra Grohs; to the Committee on the Judiciary.

H.R. 6626. A bill for the relief of Mariuccia Italia; to the Committee on the Judiciary.

By Mr. GILBERT:

H.R. 6627. A bill for the relief of Ladislau Deutsch; to the Committee on the Judiciary.

By Mr. GREEN of Pennsylvania:

H.R. 6628. A bill for the relief of Dr. Henry H. Cohan; to the Committee on the Judiciary.

By Mr. ROGERS of Colorado:

H.R. 6629. A bill for the relief of Alexandros Gatseopoulos; to the Committee on the Judiciary.

By Mr. SHIPLEY:

H.R. 6630. A bill for the relief of Walter B. Johnson; to the Committee on the Judiciary.

By Mr. YOUNGER:

H.R. 6631. A bill for the relief of Arthur N. Wells; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

140. By Mr. NORBLAD: Petition of Miss Cora E. Jagger and others of Oregon, urging the preservation of the Monroe Doctrine; to the Committee on Foreign Affairs.

141. By the SPEAKER: Petition of Richard W. Dickenson, county counsel, Stockton, Calif., urging adoption of Senate bill 1275, relating to Federal-State conflict over water rights; to the Committee on Interior and Insular Affairs.

142. Also, petition of J. E. Flores, and others, Veterans of World War I of the U.S.A. Inc., Montezuma Barracks No. 615, Taos, N. Mex., relative to supporting passage of H.R. 2332, relating to payment of pensions to veterans of World War I; to the Committee on Veterans' Affairs.

EXTENSIONS OF REMARKS

Government Lotteries of Austria, Belgium, and Bulgaria

EXTENSION OF REMARKS
OF
HON. PAUL A. FINO
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, May 27, 1963

Mr. FINO. Mr. Speaker, out of the 77 foreign countries which operate government-run lotteries, Austria, Belgium, and Bulgaria are three nations which also appreciate the revenues derived from regulated and controlled gambling.

Austria profits not only from its lotteries but from football and horseracing pools as well. In 1962, the total gross receipts of the several gambling operations came to almost $14 million. The net income to the Austrian Government amounted to about $4½ million.

Belgium is a small but smart country which derives a tremendous benefit from its government operated lottery. Last year, it took in almost $17½ million in gross receipts—an increase of over $2 million from the previous year. The net income came to $6 million, also an increase over the 1961 profits. These profits were earmarked for the Brussels International Exhibition and the Belgian Social Welfare Fund.

Bulgaria, although a Communist country, recognizes and capitalizes on the normal human urge to gamble. Last year, the gross receipts from its lottery came to over $7,700,000 of which 50 percent was given in prizes and the other half was turned over to the government treasury.

Mr. Speaker, when will we profit from the example of Austria and these other nations which recognize that the urge to gamble is universal and should be regulated and controlled? A national lottery in the United States can easily pump over $10 billion a year in new income to our Treasury which can be used to cut our taxes and reduce our national debt. When are we going to be as smart as these foreign countries and face up to the fiscal facts of life? Why not follow the lead taken by New Hampshire? What are we waiting for?

Mrs. Rex Andrews of Burbank, Calif., Receives Woman of the Year Award

EXTENSION OF REMARKS
OF
HON. EVERETT G. BURKHALTER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 27, 1963

Mr. BURKHALTER. Mr. Speaker, under leave to extend my remarks in the RECORD I would like to honor Mrs. Rex Andrews, of Burbank, Calif., who was given the Woman of the Year Award, being selected from nine outstanding nominees. This award is made annually by the Burbank Women's Council.

Grace Andrews is the wife of Rex Andrews, who happens to be Burbank's outstanding chief of police. The Andrews have two sons: Lee Lewis is attending junior college and the older son, Rex Elwyn, is in the U.S. Navy, serving aboard the U.S.S. *Buck*.

Mrs. Andrews was a registered nurse and her family and community have been the fortunate recipients of this skill and knowledge. Burbank, because of her service, is a better place to live and especially so for the handicapped and underprivileged as well as for her friends and associates.

The endless work of coordinating diverse community projects in Burbank is participated in by 39 women's organizations. Four categories in which the winner must be outstanding were established by the council in selecting their Woman of the Year: First, homemaking; second, civic achievements; third, religious activities; and fourth, social welfare.

Grace Andrews has given of her time and energy to the community in many, many more ways than those officially recognized in this award. She was cofounder and past president of Lelani chapter of the Childrens' Home Society and is now past president of the American Society of Community Visiting Nurses, after having served two terms as president. She also served as president of the Burbank Senior High School PTA and was State chairman of the PTA Founder's Day Committee. Two years were spent as finance chairman of the John Muir School PTA; chairman, Home Service Committee of the American Red Cross, Burbank chapter; recording secretary and Junior Women's Club sponsor for the Burbank Women's Club; member of the board of directors of the Burbank Symphony Association and in addition many, many of her hours have been given gladly to the Burbank police clinic.

It is because such women as Mrs. Rex Andrews have given unselfishly of their time and talents, throughout the Nation, that others are inspired with pride and security in our land and the American way of life. I believe that such noble and unselfish giving of one's self in serv-