

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

There was no objection.

**LAUREL LEA SCHAEFER—
MISS AMERICA**

Mr. DEVINE. Mr. Speaker, it is a great pleasure to formally acknowledge that one of my constituents in the 12th District of Ohio won the title of Miss America in the recent pageant in Atlantic City, N.J., Saturday, September 11.

Miss Laurel Lea Schaefer, 22, daughter of Mrs. Eleanor Schaefer of 2453 Plymouth Avenue, Bexley, Ohio, certainly is endowed with beauty, talent, and poise, and I may add considers herself as a conservative Republican. Ohio and the Nation can be most proud of her selection.

I wish to take this opportunity to congratulate her on this distinct honor, and wish her much success and happiness in reigning as the 1972 Miss America. I am confident she will represent the United States with much dignity, charm, beauty, warmth, and intelligence.

**BUSING TO ACHIEVE RACIAL
BALANCE**

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

Mr. THOMPSON of Georgia. Mr. Speaker, this past Sunday in Savannah, Ga., more than 10,000 concerned parents assembled and protested the forced busing of their children out of their neighborhoods into other areas.

In Augusta, Ga., I was privileged to attend a meeting where there were more than 8,500 parents protesting the cross-town busing for the sole purpose of achieving racial balance.

Mr. Speaker, we have gone beyond the question of desegregation and now we are entering the era of trying to force children out of their neighborhoods in order to achieve what someone else considers to be social well-being.

I noticed that in Pontiac, Mich., the people there have protested by shutting down the General Motors plant.

I will call for several quorum calls today, Mr. Speaker, to give the Members of the House an opportunity to sign the discharge petition, in order that we may vote on this matter. The people of America have a right to have their Representatives in Congress vote on a resolution to prohibit forced busing of students.

**BIRTHDAY GREETINGS TO THE
HONORABLE DURWARD G. HALL,
OF MISSOURI**

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

Mr. GROSS. Mr. Speaker, I rise at this time to call the attention of the House to the fact that this is the birthday of the genial gentleman and my friend from the Ozarks, Dr. HALL. He says he is 92 reaching for 93. I do not believe it.

Last June he had a few questionable remarks to make about my birthday. I am going to return good for evil and just wish him many, many more happy birthdays.

**BIRTHDAY GREETINGS TO THE
HONORABLE DURWARD G. HALL,
OF MISSOURI**

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

Mr. THOMPSON of New Jersey. Mr. Speaker, I should like to join my friend from Iowa in wishing the gentleman from Missouri, Dr. HALL, a happy birthday. I believe all of us do. And I hope that he has many, many more happy ones.

I was really amazed, however, by the ingratititude of the gentleman from Iowa, because I felt that the tribute paid by his personal physician to him on the occasion of his birthday was an extremely gracious and kind one. I hope the gentleman from Iowa has consent to revise and extend his remarks so that he can be a little bit more kind to his elderly friend.

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

Mr. THOMPSON of New Jersey. I yield to the gentleman from Iowa.

Mr. GROSS. The only trouble was that he did not bring his bugle with him last June and give a recital for the benefit of the Members.

Mr. THOMPSON of New Jersey. Now I understand.

HEARINGS BEFORE SUBCOMMITTEE ON JUDICIARY OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA IN RESPECT TO FINANCIAL ARRANGEMENTS FOR THE ROBERT F. KENNEDY STADIUM

Mr. HUNGATE. Mr. Speaker, the District government and the Federal Office of Management and Budget have submitted a draft bill which develops a financial arrangement for the Robert F. Kennedy Stadium. The District of Columbia Subcommittee on Judiciary will hold public hearings on this bill Monday, September 20 at 10 a.m., room 1310, Longworth House Office Building. To avoid holding hearings on a bill that has not yet been introduced, I am introducing this bill today, for that purpose only, and invite study or testimony by any interested Members.

PERSONAL ANNOUNCEMENT

Mr. DRINAN. Mr. Speaker, because I was detained by official business on Thursday, September 9, 1971, I was unable to cast my vote with regard to H.R. 9727, the Marine Protection, Research, and Sanctuaries Act of 1971. Had I been present, I would have voted in favor of this bill, the objectives of which I fully support. I am gratified that the measure passed by a record vote of 304 in favor, 3 opposed.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 254]

Abourezk	Dulski	McEwen
Addabbo	Edwards, La.	McKay
Ashley	Eshleman	Madden
Badillo	Gallagher	Pelly
Belcher	Garmatz	Pike
Blanton	Goldwater	Rosenthal
Bray	Haley	Ruppe
Burke, Fla.	Halpern	Scheuer
Celler	Hanna	Sisk
Clark	Hathaway	Sullivan
Clay	Hébert	Symington
Corman	Hogan	Talcott
Delaney	Jarman	Teague, Calif.
Dellums	Kee	Terry
Dent	Long, La.	Vander Jagt
	McCulloch	Widnall

The SPEAKER. On this rollcall 385 Members have answered to their names, a quorum.

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

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 10090, PUBLIC WORKS AND ATOMIC ENERGY COMMISSION APPROPRIATIONS, 1972

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that the Managers may have until midnight tonight to file a conference report on the bill (H.R. 10090), making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other agencies of the Department of the Interior, the Appalachian Regional Commission, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1972, and for other purposes.

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

There was no objection.

PROHIBITING DETENTION CAMPS

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 234) to amend title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be committed for detention or imprisonment in any facility of the U.S. Government except in conformity with the provisions of title 18.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House

on the State of the Union for the further consideration of the bill H.R. 234, with Mrs. GRIFFITHS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on yesterday, it had agreed that the bill would be considered as read and open to amendment at any point.

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

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. ICHORD**

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

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ICHORD: Strike out all after the enacting clause and insert in lieu thereof the text of the bill H.R. 820, as follows:

That section 102(a)(3) of the Emergency Detention Act of 1950 (50 U.S.C. 812(a)(3)) is amended to read as follows:

"(3) Concurrent resolution of the Congress declaring the existence of an insurrection within the United States in aid of a foreign enemy."

Sec. 2. Section 103 of such Act (50 U.S.C. 813) is amended by adding at the end thereof a new subsection as follows:

"(c) No citizen of the United States shall be apprehended or detained pursuant to the provisions of this title on account of race, color, or ancestry."

Sec. 3. Clause (2) of the second sentence of section 104(d) of such Act (50 U.S.C. 814(d)) is amended to read as follows: "(2) of his right to be represented by counsel, or to have counsel appointed to represent him if he is financially unable to obtain counsel as provided in section 109(f) of this title".

Sec. 4. (a) Subsection (f) of section 109 of such Act (50 U.S.C. 819(f)) is amended to read as follows:

"(f) Every detainee shall be afforded full opportunity to be represented by counsel at the preliminary hearing prescribed by this title and in all stages of the detention review proceedings, including the hearing before the Board and any judicial review, and he shall have the right at hearings of the Board to testify, to have compulsory process for obtaining witnesses in his favor, and to cross-examine adverse witnesses. The Board shall establish a plan for furnishing representation for detainees who are financially unable to obtain adequate representation in proceedings under this title. Unless the detainee waives the appointment of counsel, the Board or its designee, if satisfied after appropriate inquiry that the detainee is financially unable to obtain counsel, shall appoint counsel to represent him. If at any time after the appointment of counsel the Board finds that the detainee is financially able to obtain counsel or to make partial payment for the representation, the Board may terminate the appointment of counsel or authorize payment in whole or in part as provided in this subsection and as may appear in the interests of justice. Counsel for a detainee who is financially unable to obtain investigative, expert, or other services necessary to adequate representation of the detainee may request them in an ex parte application to the Board. Upon finding, after appropriate inquiry, that the services are necessary and that the detainee is financially unable to obtain them, the Board shall authorize counsel to obtain such services on behalf of the detainee. The Board may, in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained. Counsel appointed pursuant to this subsection, or a bar association or legal aid agency which made counsel available for appointment, shall, at the conclusion of the representation or any segment thereof, be compensated by the

Board and reimbursed for expenses reasonably incurred, including the investigative, expert, or other services authorized, to the extent and in accordance with the schedule of payments at the highest rate thereof as provided in subsections (d) and (e) of section 3006A, title 18, United States Code, and the expenditure therefor shall be included as an expense of the Board authorized under section 106(b) of this title."

(b) Subsection (h)(1) of section 109 of such Act (50 U.S.C. 819(h)) is amended to read as follows:

"(1) Whether such person has received or given assignment, or training or instruction in procedures and techniques, for the commission of espionage or sabotage, under the supervision and in service or preparation for service with or on behalf of any foreign government, foreign political party, organization, or movement which is Communist or which has as a purpose the overthrow or destruction by force or violence of the Government of the United States or any of its political subdivisions;".

Mr. POFF (during the reading). Madam Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes in support of his amendment.

Mr. ICHORD. Madam Chairman, I ask unanimous consent that I may be permitted to proceed for an additional 5 minutes.

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

Mrs. ABZUG. I object. I would like to point out—

Mr. ICHORD. Regular order, Madam Chairman.

The CHAIRMAN. The gentleman from Missouri has the floor.

Mr. ICHORD. The lady has objected. I see that she wants to proceed upon emotion and rhetoric alone and not upon facts and logic. This is a point, Madam Chairman, that I have made throughout the general debate. I made the charge—and it is a very serious charge—that the subcommittee of the House Committee on the Judiciary has not done its work well; that it has jumped from the frying pan into the fire; that it is trying to legislate on unfounded fears and not on facts and logic, and now you do not want to hear the facts and the logic.

Let me say, Madam Chairman, that I bow to no one in this body for devotion to libertarian principles and particularly to the Bill of Rights enshrined in the Constitution of the United States.

I will say to the lady from New York that I am a libertarian, yes. I am not a libertine. I am a disciplinarian, yes—

Mr. ROONEY of New York. Will the gentleman from Missouri yield?

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

Mr. ROONEY of New York. Our colleague is not the lady from New York; she is the gentlewoman from New York.

Mr. ICHORD. I stand corrected. To the gentlewoman from New York.

I am a disciplinarian.

Mrs. ABZUG. Will the gentleman yield?

Mr. ICHORD. I refuse to yield at this time.

I am a disciplinarian, but I am not a governmental disciplinarian. I pointed out many times that there is no society which demands more self-discipline than a free society. You do not need self-discipline in a totalitarian society. Those who are the rulers can give you the discipline with the iron fist.

I rise to address the House on libertarian principles. My position is very, very simple. I say that the true libertarian position is not to repeal title II, which was drafted by some real libertarians, namely, Senator Douglas; namely, Senator Lehman, and namely, Senator HUMPHREY—and I do not think anybody in this body would question the libertarian principles of those gentlemen—but I will point out to the Members of the House that in these emotional, unrestful times it is very easy to destroy liberty in the name of liberty. I am afraid that is what the Committee on the Judiciary would have us do if we do not look very closely at the facts involved in this debate.

Madam Chairman, I want to correct one error that I made in debate yesterday.

I referred to the original proviso prohibiting detention except under title 18 as the original Railsback amendment. I will yield to the gentleman from Illinois on that. It is my understanding that you had no part in the drafting of the measure prohibiting detention under title 18. Is that correct?

Mr. RAILSBACK. Will the gentleman yield?

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

Mr. RAILSBACK. The gentleman is correct.

Mr. ICHORD. I hope that I have straightened out the error.

I would like to briefly advise the Committee of the Whole House on the State of the Union as to what the procedure was.

During the last session, the 91st session, there were several bills that were introduced providing for the outright repeal of title II of the Internal Security Act of 1950. Some of those bills were referred to the House Committee on Internal Security. Other bills were referred to the House Committee on the Judiciary.

I pointed out in the hearings that we had on the measures that what would we accomplish if we merely—

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

Mr. ICHORD. Madam Chairman, I ask unanimous consent to proceed for 1 additional minute.

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

Mrs. ABZUG. Madam Chairman, reserving the right to object, I want to just point out to the gentleman from Missouri (Mr. ICHORD) this fact. I do not know what the situation is in other States, but in New York State and in New York City today a good number of the Members of the House from that area have to go back for New York elections which are very important.

We had 3 hours of debate yesterday on this matter in which the gentleman expressed his views very fully on this amendment. Many of us gave up our opportunity to speak yesterday and will give up our opportunity to speak today. I think we have had adequate debate on this subject under the 3-hour rule. Those of us from New York would appreciate it if we could have the opportunity to have an expeditious vote on this question. That is my reason for objecting to the unanimous-consent request.

The CHAIRMAN. Does the gentleman from New York insist upon her objection?

Mrs. ABZUG. Madam Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. ICHORD. Madam Chairman, I have pointed out the fact when the bills were originally referred to the House Committee on Internal Security that if we merely repealed the section we would really not accomplish anything, because we would be returning to our position in World War II when this black page in American history occurred.

I would point out to the members of the committee that title II can only be a false symbol of what happened to the Japanese, because title II was not on the books in the year of 1942.

My position is that if it had been on the books what happened to the Japanese would not have happened.

Then, Madam Chairman, the distinguished gentleman from Hawaii added an amendment, "No person shall be detained except pursuant to title 18."

The Department of Justice objected to that and then the gentleman from Illinois drafted the so-called Railsback amendment.

Now, let us look at this matter in proper perspective.

We are not dealing with a peacetime measure. We are dealing with a wartime measure.

The Supreme Court has said in a unanimous opinion that the President's wartime power is very broad. It is the power to prosecute a war successfully. It is a power which, however, can be restricted by Congress.

This principle was set down in the Youngstown case when President Truman seized the steel mills and that seizure was declared unlawful because he did not proceed under the Defense Production Act or the Taft-Hartley Act.

That is why I say that title II is in fact a restriction upon the power of the President. That is why I say that the support of H.R. 820 is the true libertarian position.

Title II is a wartime measure stating that the President shall have the authority to apprehend those whom he has reason to believe would commit espionage or sabotage. That power can only be invoked upon the happening of one of three conditions.

First, a declaration of war by Congress.

Second, an invasion of the United States.

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

Madam Chairman, it is the third condition that has caused all of the trouble. It is the third condition that has permitted the so-called Citizens Committee for Constitutional Liberties, which is a Communist front, and the executive secretary of that Citizens Committee on Constitutional Liberties, who testified at the hearings, a known Communist—it is that third condition that permitted them to raise all of these unfounded fears.

The gentleman from Pennsylvania is correct in his statement on the floor of the House yesterday.

Now, what I have done in H.R. 820 is this: that third condition I have cleared up. I have stated that it cannot be used except by a joint resolution of the two Houses of the Congress. Second, we have guaranteed the right of indigent detainees to counsel. Third, we have made it clear that what happened to the Japanese in World War II when this act was not on the books could not happen again by stating that no person can be detained by reason of race or ancestry and, fourth, we have clarified the criteria by which a potential espionage agent or saboteur can be detained. In addition the writ of habeas corpus is retained.

It is for these reasons, Members of the House, that I contend that amendment of title II rather than repeal of title II is the true liberarian position, and I state very frankly that if this House accepts the bill and committee amendment reported out by the House Committee on the Judiciary it may well prohibit the apprehension of saboteurs and espionage agents in time of war.

Madam Chairman, I move the adoption of the amendment in the nature of a substitute.

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

Mr. RAILSBACK. Madam Chairman, I rise in opposition to the amendment in the nature of a substitute.

Madam Chairman, I think that the 3 hours of debate we utilized yesterday makes it really unnecessary to cover all of the same ground that we covered then. It is my hope that we can be very brief, too, and that we can reach a vote at an early hour.

Let me just say for those of you who were not on the floor yesterday that the issue is: should we repeal title II of the Internal Security Act of 1950—which although never used is without question offensive to many Americans, including Americans of Japanese descent who have memories of what happened back in 1942, when about 112,000 persons of Japanese descent, many of whom were American citizens were ordered by an Executive order, to abide by a curfew which applied only to them, were ordered to evacuate certain areas, primarily in the western States of Oregon, Washington, and California, and I believe the western part of Arizona, and to report to a detention camp without what we normally regard as any kind of due process—should we repeal title II and prohibit detention camps?

I think it is important to realize that

simple repeal of title II of the Internal Security Act of 1950 does not solve the problem which occurred in 1942.

The reason is, of course, the act of 1950 came after the events of 1942.

What is the difference between the two bills? The Committee on the Judiciary took the Matsunaga bill, and after objections from the Department of Justice which were directed at those provisions, which refer to title 18 and prevented any kind of detention except pursuant to title 18, amended it to require that no action may be improvised or otherwise defined by the United States except pursuant to an act of Congress. This eliminates whatever authority the President would have on his own to establish detention camps except in those cases of emergency when martial law may properly be invoked. The Supreme Court noted this exception in *ex parte Milligan*. Nothing Congress does can affect executive martial-law powers which arise when the processes of government cannot function in an orderly way. For that is truly a "nonlaw" situation. But short of that Congress can limit Executive authority. That is what article I, section 8, means. That is what Chief Justice Marshall wrote for the Supreme Court in the *Flying Fish* case. That is what the Supreme Court said in *Youngstown Sheet & Tube Co. against Sawyer*.

My amendment that—

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

Would allow that all of the acts that are presently in existence to be utilized. And if Congress saw the need for further authority, we could act.

As far as the amendment sponsored by the Internal Security Committee is concerned, let me just allay the apprehension that I think was generated by a letter that was sent around that we would, in effect, hamstring the President.

It is important to realize that the new amendment offered in the gentleman's bill, H.R. 820, that congressional action is required in two of the three events that triggered the personal proclamation which under their bill could still result in detention camps.

The case of a declaration of war requires congressional action. Now under the new bill, H.R. 820, congressional concurrence with respect to the declaring of an insurrection is required.

So that means that we are talking about one instance that would not be covered, and that is the case of an invasion.

It is my belief that under existing law, if an invasion reached the proportions that it would disrupt our civil processes or would interfere with the operations of our courts, we would be in a state of martial law. In that kind of situation, the President could act. He would not be hamstrung. This is the exception implicit in my amendment which I have noted before.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KASTENMEIER. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the gentleman from

September 14, 1971

Illinois has just stated what the question is—it is whether or not the House of Representatives will repeal title II of the Internal Security Act of 1950.

The testimony before the Internal Security Committee last year was from 27 Members of the House, and was entirely for the repeal of the act; and from a former Supreme Court Justice; and from a U.S. Senator; and from the Department of Justice itself, and was uniformly in favor of repealing title II.

The Internal Security Committee itself, when the matter came up, was deeply divided as it still remains divided. Title II was rejected in the House Internal Security Committee last year on a 4 to 4 vote.

The question still remains then for us—shall title II be repealed? The Department of Justice still insists that it should be. There are those who feel, as was expressed yesterday, that the House Committee on Internal Security is expert on the matter. But I suggest to you that the officer charged with the internal security of the United States is the Attorney General and particularly the Assistant Attorney General for Internal Security, Mr. Mardian.

There are several reasons why one would oppose title II. One might indeed entertain some constitutional questions about the title. One might view it with all the repugnance that rhetoric could command. There are others who simply—and this pertains to the Justice Department—oppose it because it is not necessary, contrary to what the gentleman from Missouri has suggested, and I refer you to the House Judiciary Committee hearings, page 74. I asked Mr. Mardian, Assistant Attorney General for Internal Security—

It is quite clear, then, that the Department's position is that the Emergency Detention Act of 1950 is not needed in the performance of its internal security functions; is that correct?

The answer Mr. Mardian gave was: "Yes, sir."

Mr. Mardian went on to suggest why this law is not necessary. He, the officer charged with the security of the United States, went on to say—

There are numerous statutes on the book that relate to the commission or attempt to commit acts of sabotage.

And he submitted, and I refer you again to pages 74 and 75, a series of statutes that the Justice Department is confident, in war or in peace, it can rely on for the purpose of protecting the internal security of the United States.

So it is to this moment that the Justice Department supports repeal. It does not support mere amendment to title II, as suggested by a bare majority of the House Internal Security Committee. It supports repeal.

Mr. ICHORD. Will the gentleman yield at that point?

Mr. KASTENMEIER. I yield to the gentleman from Missouri on that point.

Mr. ICHORD. I think the gentleman is correct, and I think we should also make it clear that the Department of Justice does not support the amendment offered by the gentleman from Illinois, which is also the committee amendment.

Mr. KASTENMEIER. And it does not oppose it either. It is, as was pointed out yesterday, silent on the question. But the committee did address itself to the objection posed by the Justice Department in formulating that amendment. If this is indeed, to quote the gentleman from Missouri in his letter to colleagues, "a most dangerous committee amendment," do you believe that the Justice Department, the Internal Security Division of the Justice Department would be silent to this day on that matter, if indeed it holds such a threat? No, indeed.

I suggest the question is whether or not title II should be repealed.

I would further suggest that should, by any consequence, the substitute prevail, we will have nothing. There is no one in the Senate who supports this, nor does the administration.

Madam Chairman, I oppose the substitute.

Mr. ASHBROOK. Madam Chairman, I rise in support of the amendment.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. ASHBROOK. Madam Chairman and members of the Committee, I certainly agree with much of what has been said. There were many variations yesterday in the debate on exactly what the situation is. There are different views today. I think the facts are clear what happened in 1941 and 1942. A great amount of our attention has been directed to what has happened in the past to loyal Americans. I think in many ways we have overlooked the situation that the amendment offered by the gentleman from Missouri primarily directs itself to, and that is the situation where we have disloyal Americans, where we have saboteurs, where we have insurrectionists, where we have those who are bent on changing our Government by war, by invasion, by subversion.

So I think we should not let the emotional Japanese-American situation in 1941 and 1942 cloud the basic purpose of the bill.

I happen to feel that in H.R. 234 its sponsors are asking us, in effect, to go back to the 1941 or 1942 era. They admit defeat. With 30 years of hindsight, we still are not going to do anything about these past errors if we adopt H.R. 234.

Constitutionally it seems to me that situation is very clear. Like it or not, in times of national peril a President of the United States has immense power. I happen to believe that most of us do not really comprehend how much power the President has when he acts unilaterally in time of emergency. It is very clear that the courts on many occasions have upheld the exercise of those powers, and all we have to do is look at the 1941-42 situation regarding the detention of the Japanese-Americans. If this is true, it is even truer that where the Congress backs up the President in times of emergency, that power is enhanced.

Are we going to allow the Executive in the future to have unlimited power because we have chosen not to act in any way limiting his power? I particularly would call the attention of Members to the statements made by my good friend, the gentleman from Illinois (Mr. RAILSBACK) who, in colloquy yesterday, said

on several occasions that those detained have all these constitutional provisions and protections. I asked the question then and I ask it now: What constitutional provisions and protections would be available to a detainee in the future that was not available to the Japanese-Americans in 1941 and 1942?

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

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

Mr. ICHORD. Madam Chairman, the gentleman makes a very important point. Would what happened to the Japanese-Americans in 1942, have happened under title II?

Mr. ASHBROOK. Under title II, without the amendment of the gentleman from Missouri, I feel it may have. I would say there is a much less chance of it happening with H.R. 820.

The President acting alone has great power, almost unlimited power. Acting with the acquiescence of the Congress, he has almost unlimited power in times of peril. Contrast that situation with the President acting in times of peril with the limiting language on the statute books, if it is passed by the Congress. I think everyone of the Members knows this would limit his power.

What we are being asked to do in H.R. 234 is to go back to the situation where the President has this power without any restraint and merely say that all the constitutional provisions the gentleman from Illinois referred to, such as the right of being confronted by the accuser and the right of trial by jury—all of these constitute his protection. We have already seen they will not protect, as in 1941-42. For the Congress to go to the position of removing any limitations on the powers of the President is to invite a similar situation to what happened in 1941-42. This I do not think we should responsibly do.

I see many points where we could disagree with title II and with the thrust of it, but frankly I think it is important that we do put some limiting language on the statute books, so that the actions of any President or any future President would be circumscribed. All we have to do is view the cases. The President's power is vast, acting alone and in what might seem to be sometimes unlimited or unconstitutional ways.

The President has always been given this power by the Supreme Court, or generally has been in times of peril. I happen to think the President would have less power if the courts at some future time would look at the statute books and see the Congress did not mean for the President to take this kind of action.

Mr. SEIBERLING. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the gentleman from Missouri (Mr. ICHORD) has described himself as a libertarian. I am not sure that the word has an exact meaning, but if we are going to discuss what is essentially a constitutional question, I submit there is no better authority as to the principles we are dealing with than the words of the Constitution itself. I think we tend to get off on tangents if we do not go back and take a look at the funda-

mental instrument on which our free institutions are based.

Article V of the Bill of Rights starts out this way:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury....

Does the Congress have the power, therefore, to hold a person when he is not indicted for a crime? Clearly not. Yet that is the purport of title II, even as amended by the Ichord bill.

I go now to amendment VI of the Constitution:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed;

And, reading further—
and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him;

Mr. ICHORD. Madam Chairman, will the gentleman yield, on the question of the Constitution?

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

Are we to say that what we cannot do in criminal prosecutions we can do when no crime has been committed or even charged, and still live within the Constitution?

I turn now to amendment VIII of the Constitution:

Excessive bail shall not be required . . . nor cruel and unusual punishments inflicted.

What is the purpose of preventing excessive bail except to prevent any detention that is not in accordance with the Constitution?

There is no use debating whether the President would exceed his powers less if we had the Ichord bill, than if we did not have the Ichord bill. The question is whether the President has any power under the Constitution to incarcerate persons not charged with any crime, except when the processes of civil government have broken down or cannot contend with an emergency situation.

I submit that under the language of this Bill of Rights and the decisions of the Supreme Court, the answer is a clear "No".

I do not believe that the Congress, by passing this amendment and reaffirming the principles of title II, should give its sanction to what is basically a usurpation of power and violation of the Bill of Rights.

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

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

Mr. ICHORD. The gentleman raises a point as to the unconstitutionality of title II. It is true, I would say to the gentleman, that the Department of Justice recommended repeal on the basis of unfounded fear, but they did testify before the committee that there was no doubt as to the constitutionality of title II. So insofar as the committee is concerned, and the Department of Justice, there is no question about the constitutionality of title II.

Mr. SEIBERLING. The lawyers, who, for the time being constitute the Department of Justice, are entitled to their opinion. I submit that whether title II is constitutional in a particular fact situation depends on whether there were no other ways to cope with an emergency except by a temporary suspension of constitutional due process, as in the case of martial law. That is really what we get down to.

Mr. ICHORD. I believe the gentleman will agree with me when I say that the detention of the Japanese in World War II was a black page in American history.

Mr. SEIBERLING. It was infamous and clearly unconstitutional.

Mr. ICHORD. I would say clearly it was unconstitutional. However, it happened. It was proclaimed by the Executive. It was acquiesced in by the Congress. And it was confirmed by the Supreme Court of the United States.

This is my reason for saying that I am taking the true libertarian position, because it does operate as a restriction upon the power of the President in time of war.

Mr. SEIBERLING. In my opinion, you would not prevent the President from doing the same thing all over again, even if we have the Ichord amendment on the books. I do not believe the Congress should give sanction to this kind of thinking. It opens up too big a breach in the Bill of Rights.

Mr. WRIGHT. Madam Chairman, it seems to me that the force of what we do here today will be primarily symbolic, for we seek to repeal a statute which has never been invoked, and in a sense we do it in expiation for sins that were committed before the statute existed.

Obviously it could not be said that the Government was powerless to protect itself before the Emergency Detention Act of 1950. Obviously it cannot be contended that this act has been a vital instrument in our national self-preservation, because it has never been brought into play.

I think we should have to say also, though, that no good case could be made that any real, palpable harm had been created because of the existence of the statute, because the powers it confers have never been exercised. So basically the question comes down to the kind of symbol that we want to raise here today.

It seems to me, as has been suggested earlier—and this is the reason why I joined the gentleman from Hawaii as a coauthor of this bill—that one of the truly grievous wrongs this Nation has committed and one of the dark moments in our history of individual liberty in this country occurred in the days of World War II when many thousands of loyal, law-abiding U.S. citizens were arrested, detained, separated from their homes and property without due process of law, and held in custody for many months on no other ground than their ancestry. That to me, seems anathema to all that we proclaim and hold dear in this country.

That did not come about because of the Emergency Detention Act. Yet the Emergency Detention Act in one sense placed an official retroactive sanction on that abhorrent deed.

To see it in proper perspective perhaps we ought to look back to the period in which the Emergency Detention Act of 1950 was enacted. It was a product of its times. The hysteria that ran like a fever in the national bloodstream in those immediate postwar and Korean war years; the almost paranoid preoccupation with internal security; the willingness to see ourselves as dupes of some diabolical conspiracy; the tendency to permit denunciation to take the place of evidence, in the words of the late Justice Learned Hand. All of these were symptoms of a temper and a fever and a sort of virus that infected our national life and too often dominated our political thought in those years.

Now, what do we want to do here today? Do we want to ratify that feeling, or do we want to say that we have moved on to a time in which we believe we no longer need any semblance of detention camps or concentration camp authority in the United States?

I believe we possess, inherent in the laws of this country, and in the emergency powers of the President, sufficient and adequate safeguards for the internal security of this Nation. We do not really need the elaborate framework of legal authority embodied in the Emergency Detention Act.

I should like to come down on the side that the gentleman from Hawaii has staked out, which is the side of individual freedom.

There exists a fear—and perhaps it is an unreasoning fear—on the part of some that the Emergency Detention Act of 1950, if allowed to remain on the books in any form, could some day be used by injudicious administrators as a means of political persecution. I do not adhere to that view. I do not feel that such a thing would likely happen.

Yet I should like for us today in the Congress to reaffirm our basic belief in the soundness and loyalty of the average American citizen. I think I will plead allegiance to those words expressed by Thomas Jefferson in his first inaugural address when he enunciated a principle precious to American liberty:

If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it.

He was speaking, of course, not of overt deeds. We have the power to deal with those who commit such deeds. He was speaking of the freedom of man.

We need no concentration camps, no procedures for the institution of detention barracks. What we need is a restoration of faith in the basic principles of individual freedom which have sustained us so long and served us so well.

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

Madam Chairman, I rise in support of the Ichord amendment. I think that the sentiment and feeling of the House may be detention camps such as those used in World War II would be prohibited by the repeal of the section of the 1950 act.

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The idea of those camps is repugnant to all of us. On the other hand, this is like insurance, fire insurance, casualty insurance, liability insurance and, yes, life insurance. It is better to have it and not need it than it is to need it and not have it.

I remember very well the days of early 1942 to which my dear colleague and friend, the gentleman from Texas (Mr. WRIGHT) referred a moment ago in his remarks and other Members who have preceded both of us have also referred.

I remember those days in early 1942 very well. As a matter of fact, 2 days after December 7, 1941, the unit to which I was then assigned was immediately ordered to California. We were ordered there in the judgment of the Secretary of War and the Chief of Staff to defend this country for its very survival. Now, some of the things that happened after that with regard to the camps that were set up I did not particularly like.

In retrospect I do not like them now much better than I did then. But I say with all candor I would rather that the President had acted as he did than to have seen this country lose its fight for survival. That, very simply stated, Madam Chairman, is what is involved here. I fervently hope and reverently pray that the need to invoke the provisions of the act of 1950 will never arise, but if it does arise and if the survival of the United States of America depends upon it, like life insurance and fire insurance, I would rather have it and not need it than to need it and not have it.

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

Mr. FLYNT. Yes; I yield to the gentleman from Illinois.

Mr. MIKVA. Does the gentleman think that the survival of the United States in World War II depended upon putting 112,000 Japanese Americans in these camps?

Mr. FLYNT. We do not know. I will say to the gentleman from Illinois that if the survival of this country depended on such action, I would do it again without hesitation.

Mr. MIKVA. Madam Chairman, if the gentleman will yield further, then I gather that the gentleman would do it again? I hope the judgment of the House is to the contrary.

Mr. FLYNT. I would do it again in a minute if the survival of this country depended upon it. However, I hope we do not have to.

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

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

Mr. ICHORD. I do not agree with the statement of the gentleman, but I agree with his position on this amendment. I have said many times that I considered it a black page in American history when 112,000 Japanese Americans were picked up and placed in detention camps, without regard to their loyalty, without even any regard as to whether they were American citizens, but this did happen during the emotion and hysteria of war. But, who was hollering the loudest?

Who was hollering the loudest for this to happen? Former Chief Justice Earl Warren, he was hollering the loudest in California, and also the great columnist, Walter Lippmann, who most of us would consider libertarians, but you know the man who was hollering not to do it?

The CHAIRMAN. The time of the gentleman from Georgia (Mr. FLYNT) has expired.

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

Mr. FLYNT. Madam Chairman, I continue to yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding me this time, and I state to the gentleman in the well: Do you know who was complaining about the action? The man who many in this House today brand as a great authoritarian, none other than J. Edgar Hoover. He thought it was not necessary to pick up 112,000 Japanese.

And I also do not believe it was necessary to have picked up the 112,000 Japanese. And I will state further that if this act and this amendment had been on the books that would not have been done. That is my position.

Mr. FLYNT. Madam Chairman, I thank the gentleman from Missouri for his remarks. I would like to say further that I think the amendment in the nature of a substitute offered by the gentleman from Missouri, the distinguished chairman of the House Committee on Internal Security (Mr. ICHORD), should cure every opposition that anybody could have to this piece of legislation. I do not think it cripples the bill. I do not think it cripples the principle in which all of us believe. As a matter of fact, I think it strengthens it. And if I may so do, Madam Chairman, and my colleagues on the committee, this substitute, while not perfect—and I know of very few pieces of legislation that are perfect—but I think that the amendment in the nature of a substitute offered by the gentleman from Missouri is better than the committee bill; I think it is better than existing law, and I hope the Committee will adopt the amendment in the nature of a substitute offered by the gentleman from Missouri (Mr. ICHORD).

Mr. MATSUNAGA. Madam Chairman, I move to strike the last word.

Madam Chairman, we are being asked today to choose between two bills, H.R. 234, and H.R. 820. In making our choice we must decide one issue. That issue is: is there a place for concentration camps in the United States? The issue is as simple as that.

H.R. 820, the substitute, says yes, we do need concentration camps. H.R. 234 says no, we do not need concentration camps in the United States, and that there is no place for concentration camps in the United States.

I think the answer is rather obvious: certainly there is no place for concentration camps in the American scene. We associate concentration camps with Nazi Germany under Hitler, with Fascistic Italy under Mussolini, and with Communist totalitarianism, but certainly not with American democracy.

Who supports H.R. 820 which provides for the establishment of concentration camps in America?

Five members of the Committee on Internal Security which reported H.R. 820 out and which killed the bill which I first introduced, merely to repeal title II, by a 4-to-4 tie vote.

Now, who is against concentration camps, and who supports repeal of title II? The administration, the Department of Justice, the House leadership on both sides of the aisle, 160 cosponsors of H.R. 234, nearly every major newspaper in the country, more than 500 national, regional, and local organizations including the labor organizations, the chambers of commerce, civic and social organizations, the Council of Churches, the veterans organizations—you name them—they have all written to me and they have all passed resolutions calling upon the Congress to repeal this infamous law.

At least one Member of this august body said here on the floor yesterday, and surprisingly, that those who advocate the repeal of title II are mostly Communists—or perhaps dupes of Communists.

For the benefit of that Member and others who may entertain similar views, let me say that I have received an unsolicited message of support from our good friend, the former Speaker of the House of Representatives, John W. McCormack. If ever there was an anti-Communist, and an ardent anti-Communist such as he, he has never lived.

This is what he said—and I repeat that this was unsolicited. He said:

Spark, you tell my friends in the House that John McCormack is 100 percent for the Matsunaga bill. There's no place for concentration camps in the American scene. The Emergency Detention Act serves too much as a grim reminder of the grave injustice we inflicted on law-abiding Americans of Japanese ancestry in World War II. It should be repealed. We should have listened to Harry Truman in the first place and let his veto stand in 1950.

Much has been said about the libertarian position to delete title II and that libertarians such as Senators HUMPHREY, Lehman, and Douglas supported the bill when it was introduced as an amendment to the Internal Security Act of 1950 in the Senate.

The gentleman from Missouri has repeatedly stated this—but what he has failed to mention is that all three of those Senators voted to sustain the Presidential veto.

What the gentleman from Missouri has also failed to mention is that the most ardent opponents of title II were conservative Senators Pat McCarran and KARL MUNDT.

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

Mr. MATSUNAGA. I yield to the gentleman.

Mr. ICHORD. The gentleman is correct. Senator Lehman, Senator HUMPHREY and Senator Douglas were among the original authors of title II and it is true that they did not vote to override the veto. They voted to sustain the veto.

I would point out to the gentleman that there was much more in that legislation than title II. There was also title I

which was the primary basis upon which Harry Truman vetoed the legislation.

Mr. MATSUNAGA. The fact is that the so-called libertarians which the gentleman from Missouri has mentioned so frequently on this floor in debate yesterday and today—the fact is that they, after hearing the admonishment of President Truman, voted to sustain the veto.

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

(Mr. MATSUNAGA asked and was given permission to proceed for 3 additional minutes.)

Mr. MATSUNAGA. Madam Chairman, I have had and do have a deep personal interest in this matter. I am a member of the only racial minority group that suffered incarceration in American concentration camps, and I am dedicated to the proposition that no individual, or group of individuals, will ever suffer the same fate that the Japanese Americans suffered during World War II.

Mr. BURKE of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman.

Mr. BURKE of Massachusetts. Madam Chairman, I wish to associate myself with the remarks of the gentleman from Hawaii (Mr. MATSUNAGA).

During World War II, I served with 15 of the Nisei men who served in the South Pacific. Of that 15 there were several whose parents were in internment camps. I think it was a sad day in the history of this country to question even the loyalty of those people, whose sons were members of the 100th Infantry Battalion which served in Italy, France, and Germany in World War II and which was the most highly decorated battalion in the military history of this Nation—men who sacrificed their blood and limbs—who laid down their very lives for this country. We certainly should support the position of the gentleman from Hawaii (Mr. MATSUNAGA). He is speaking the truth here, and we now have an opportunity to correct a mistake of the past by supporting him and his bill.

Mr. MATSUNAGA. I thank the gentleman from Massachusetts (Mr. BURKE) for his generous remarks. As a cosponsor of H.R. 234, he has been a staunch supporter and a source of encouragement to me.

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

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

Mr. PUCINSKI. The gentleman from Missouri in his bill proposes one change to section 3 in which he calls for a concurrent resolution of the Congress for all this machinery to trigger off. But he does not touch section 1, which provides that this machinery could go into play upon an invasion of the territory of the United States or its possessions.

Do I understand correctly, then, that any assault upon some far-off Aleutian island, or some other possession of the United States thousands of miles removed from the mainland, could trigger all of this machinery, this counterinsurgency machinery?

Mr. MATSUNAGA. The gentleman is correct in his assumption.

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

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

Mr. ICHORD. I just wish to say to the gentleman in the well that I know personally of his great service to his country. But I still want to ask the gentleman how did title II bring about what happened to his people, when title II was not on the books in 1942?

Mr. MATSUNAGA. I will remind the gentleman, as I did yesterday—

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

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

Mr. MATSUNAGA. I will remind the gentleman that yesterday I made the statement that title II was not in effect at the time of World War II. It was enacted in 1950. But it serves as a grim reminder of what happened to people of Japanese ancestry during World War II and what could again happen. And, if the gentleman will please let me proceed, if title II were in effect during World War II, I contend that it would have been much easier to have confined the Japanese Americans than without title II, for the reason that title II, immediately upon the declaration of war, as was the case, could have gone into operation and the Attorney General could have been authorized by the President of the United States to proceed to round up the Japanese Americans, or any person who probably might engage in, or probably might conspire with others, to engage in espionage or sabotage. This is the language of title II to which I am strongly opposed, and which many legal minds, including former Justice of the Supreme Court Arthur Goldberg, believe makes the act unconstitutional.

Any person who is suspected that he probably will engage in or conspire with others to engage in acts of espionage or sabotage could be picked up. This means that a person could be arrested and detained, not for having committed an overt act in a crime, but for the mere probability that he may commit espionage or sabotage.

The elementary safeguards guaranteed by our Federal and State Constitutions and our judicial practices to the most hardened of criminals would be denied to the most innocent of our citizens during declared emergencies under title II.

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

(By unanimous consent, Mr. MATSUNAGA was allowed to proceed for 1 additional minute.)

Mr. MATSUNAGA. I would like, if the gentleman from Missouri will permit, to finish my statement. We are being asked today, my colleagues, to decide between repeal and amendment. H.R. 234 would repeal. It is supported by the Department of Justice, by the administration, because it has served no good. It has never been used. It will never be used, according to the Department of Justice. Leaving it on the books is bad because it has served as a source of irritation and source for dem-

onstrations, dissensions, and even violence.

Some mention was made about Communists wanting title II repealed. The very opposite would be true, I would say, for the reason that as long as this law remains on our books, the Communists can point to this law and say, "Look, the United States has a law on its books which calls for the establishment and maintenance of concentration camps."

For the greatness of our country, let us strike a resounding blow for individual freedom by defeating H.R. 820 and voting for H.R. 234.

Mrs. GREEN of Oregon. Madam Chairman, the approval of detention camps is a law before the fact, which many feel is necessary to the security of the country in the face of events unseen and unforeseeable, but I rise in support of the bill offered by the gentleman from Hawaii, the bill to repeal title II of the Internal Security Act. I oppose retention of title II for practical reasons, for legal reasons, and most importantly, as the gentleman from Texas so eloquently stated, because I think its provisions violate the spirit of the Nation itself.

In the New Testament the following question is posed to us as individuals:

What does it profit a man if he gain the whole world and lose his own soul?

I think it is an appropriate question for nations to answer as well. An individual is much more than his physical being, the real person, we would most generally concede, consists in the qualities of one's heart and mind. And so it is, too, for a community or a group or a country. In seeking to protect our country against acts of sabotage and espionage, we surely can do it without authorizing methods which violate the spirit of this Nation.

Many have made reference to that sad chapter in the life of our people during World War II and those of us especially who live on the west coast remember with humiliation what happened to our neighbors, our friends—purely because of their ancestry. They were summarily imprisoned; their property was confiscated; their rights were suspended, and a whole segment of our citizenry was detained in concentration camps without trial, convicted in a most demeaning fashion, and en masse, on mere suspicion. Repeal of title II will not guarantee that this cannot ever happen again, but its presence on our lawbooks, even in amended form, is a recurrent reminder of that haunted time. It is a continual affront, as I see it, to loyal citizens, and most importantly, an affront to the justice and decency which I believe is our national aspiration.

In the final analysis, Madam Chairman, if we would keep our territory intact but surrender all the principles by which our Nation was established, we have betrayed our country as surely and as irrevocably as any traitor in our midst. I urge support of the Matsunaga bill.

Mr. HOLIFIELD. Madam Chairman, I move to strike the last word. I rise in support of H.R. 234 and in opposition to the substitute bill H.R. 820.

Madam Chairman, it is very seldom that I take the well of the House on mat-

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ters that do not pertain to my committee, but I did take the well yesterday on one occasion, and I take it again at this time because of my deep feeling on this subject matter. I lived in the little town of Montebello, Calif., at that time, and we had quite a number of Japanese citizens. I might say we also had Japanese aliens. They participated in the community activities. And I might say also that most of them were registered Republicans, so it was not a matter of political support, because I was running for Congress at that time and was elected a few months after President Roosevelt's Executive order authorized General DeWitt to set up the camps.

I want to make this point, that I saw brutal treatment of these Japanese people, both citizens and aliens. I saw their property confiscated. I saw their agricultural equipment—most of it truck farming or flower raising machinery—put up at distressed prices, with their trucks and automobiles and equipment sold at distressed prices, because the owners were going to be imprisoned.

The Japanese did not know who would take care of their property and whether their property would be available when and if they were released from the detention camps. Most of their properties were sold at 10 to 20 cents on the dollar.

I want to speak of this experience. Some of these people I knew personally. This experience never has left my mind.

Another point I wish to make. I want to talk just for a minute about J. Edgar Hoover, whose name has been mentioned, and the position he took at that time. He did take a position against setting up these camps, and he did make the statement that the FBI already had picked up those people that they had been watching, the people who had made trips back and forth to Japan and so on. They had already picked them up. In other words, those were the people against whom the FBI had espionage evidence and these people were tried under law. There were very few, I might add.

Mr. Hoover said there was no use for mass detention at that time. I honored him at that time, and I have honored him ever since. I have never taken this floor and denounced him, although there are things he has done I did not agree with.

But at that time—at a time of hysteria, at a time of fear, at a time of hate deliberately fostered by certain groups of people claiming themselves to be super-patriots, on that occasion—he did stand up for civil liberty.

Now, I want to say something to my friend from Georgia (Mr. FLYNT). He said he was ordered out there, as were many others at that time, to California. I honor him for his service, as I honor every man for his service to the United States. But he was not needed. Time and events have proved that the concentration of those people in detention camps was not necessary. It was not based on urgent danger of any kind then or later.

Here is another point I wish to make: At that time they had, as I remember, about 475,000 residents in Hawaii of which there were about 146,000 Japanese.

They did not put the Japanese in Hawaii in detention camps. There was some talk about bringing them over to the mainland, because here was Hawaii, an outpost, which had suffered the attack, but they did not put them in concentration camps. So far as I know there were never any acts of sabotage. If so they were very small, on the part of the Japanese on the island, because they were not recorded.

There is a third thing I want to say. There came a time during World War II—I believe it was in late 1943 or early 1944—when a Texas regiment was surrounded in the Vosges Mountains in Germany, and the 442d Regiment was sent in to rescue the Texas regiment that was surrounded. The record will show that they lost more men in that attempt, had more men killed in the 442d Regiment, than the Texas soldiers who were rescued.

Our friend from Hawaii was a part of that 442d Regiment. He is too modest to speak about it. I will speak about it, because he was one of those who went to the rescue of the Texas regiment. I was told later on that the State of Texas recognized this tremendous service and honored the 442d Regiment.

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

Madam Chairman, soon we will celebrate the 200th anniversary of this great Republic. But we were not able to become a nation until those learned men who drafted our Constitution submitted for the consideration of the original States the Bill of Rights.

It was not until those first 10 amendments became part of the fundamental Constitution of the United States that that Constitution became the basic law of a new American nation called the United States of America.

Over the now almost 200 years of the history of the United States the Bill of Rights has been the subject of frequent and constant but, fortunately, always unsuccessful attacks. I would say if there is one thing that has distinguished this Nation in the 19th and 20th centuries it has been our consistent devotion to the Bill of Rights and the Constitution of the United States.

Madam Chairman, I rise here today in support of the Matsunaga bill because I think that this bill is drafted totally and completely in the American tradition of preserving those concepts set forth in that document.

Why do I say that? As I read the existing law, the Attorney General or his agent has the power to imprison individuals on the mere suspicion that they may have or that they may in some unspecified future time engage in espionage or sabotage or conspire to do so. That, in my opinion, is probably the broadest grant of any statute in the whole United States Code. It turns upside down all of the time-honored premises of American justice, one of them being the statement that a man is innocent until proved guilty. It permits indefinite imprisonment without charges having been made or a hearing having been set thereon.

There is no right to a trial by jury or

even to a hearing before a judge. There is no chance for the accused to confront or cross-examine his accusers. There is not an appeal to a court of law from a purely administrative decision imprisoning and taking away the liberty of a citizen.

So it seems to me that here we deny to those who may be totally innocent, as the gentleman from Hawaii has so eloquently testified, the basic concept of the American Bill of Rights, which is the very protection that we afford to the most hardened criminal who goes into a criminal court of justice.

Maybe I have reduced these essential issues to their basic simplicities, but these rights that we enjoy as Americans, although simply stated, are the most precious things we have.

One of the things that the men who wrote the Bill of Rights feared and admonished against was the incursion and the encroachment of government and the agents of government into the liberties of the people.

So I hope, Madam Chairman, that the members of this committee will support the gentleman from Hawaii.

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

Madam Chairman, I rise in opposition to the substitute.

Our colleague from Missouri said that we are legislating here today from emotion. I have waited for some time to cast a vote on this issue because in my judgment title II has no business being on the statute books of our Republic.

Madam Chairman, on Pennsylvania Avenue, in front of the National Archives Building, we have two monuments on which are inscribed the words, "What is past is prologue. Study the past." We should study the past to understand the full meaning of this legislation.

Thank God we have never had to use this counterinsurgency act and I hope we never do.

But, let us look at what happened to some of the countries which have had to use their counterinsurgency laws. It was my privilege to be in Greece shortly after the military junta took over that country in 1967. You will remember that it was a bloodless revolution. Within the span of 3 hours, the military took over that entire nation. In 3 hours they arrested 6,000 people, many of them Communist conspirators; seized the nation's newspapers, the television stations, the radio stations, and placed them under junta control without one shot being fired. It was a bloodless revolution, designed to save Greece from falling into Communist hands. The entire revolt was perfectly legal and carried out in what they honestly believed was in the best interest of Greece.

Shortly after the takeover, it was my privilege to have dinner with some of those who masterminded that uprising. I asked one of the leaders, "How do you achieve this sort of a takeover? How do you take over a country? How do you stage a coup like this without firing a shot that makes it so complete in so short a time?"

He said, "It was very simple. For 10 years we have been developing a counter-insurgency plan in this country with the full knowledge, cooperation, and support as well as the acquiescence of the civilian government. We have a law which permits us to do this and all we needed was for someone to push the button; for someone to proclaim that the survival of Greece was being threatened by an insurrection."

The plan went into effect and 6,000 people were arrested including members of the legislature. I talked to some of them on one of the offshore islands where the prisoners were being held.

I can understand why Greece needed a counterinsurgency law. Greece was surrounded on three sides by three Communist neighbors and on the fourth side by Turkey, historically hostile to Greece. One could argue that the detention law was needed in Greece. But what can happen under this kind of a bill? It is important for Americans to understand the price you pay for such a law. Under existing law we provide that this whole machinery for mass arrests of suspects can come into play and all of the things that our distinguished majority leader talked about can become a reality whenever the President wishes to invoke this act. In other words, if someone invades some obscure island in the Aleutians, thousands of miles removed, for instance, this law could come into play. So, you had better think about this. You better ask yourself as Americans if you are willing to pay the price the present law requires in personal freedom.

Thank God, Madam Chairman, we have never had to use this law. But it is there and it can be used.

Let us look at a current situation which exists in the world today. England developed the Magna Carta and habeas corpus. But now, England has what is known as the Special Powers Act of 1922 and right now, at this minute as I speak to you, 300 Irish Catholics are languishing in a ship off the coast of Belfast since August 9, 1971, with never a charge placed against them. The law provides that the British may make an arrest if one's behavior is of such a nature as may be reasonably considered for suspecting that he has acted or is acting or is about to act in a manner prejudicial to the preservation of peace or the maintenance of order. So, there are these 300 Irish Catholics imprisoned on a ship off the coast of Belfast even though no charges have been placed against them. They have never been admitted to bail, they have not been indicted, they have had no right to counsel and to this day they do not know with what they are charged.

I cite this outrageous arrest of Irish Catholics because I wanted to show you what can happen in countries that have laws like this. I want you to join the gentleman from Wisconsin in voting down this substitute and then voting down title II.

Madam Chairman, as the distinguished majority leader said, in another 5 years we will observe the 200th anniversary of this Nation. This Nation has endured

many hardships and crises. We do not need this detention law to preserve this Republic.

Madam Chairman, I yield back the balance of my time.

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

Madam Chairman, we do know of the heroic actions during World War II of the distinguished gentleman from Hawaii (Mr. MATSUNAGA), and that he shed his blood for his country and ours. I submit that greater love has no man than this. The wrong our country unwittingly perpetrated on our Japanese citizens has never been righted, and can never be righted. Homes were taken, property sold, citizens incarcerated, and little or nothing has been done to right this tragic wrong.

The vast majority of all races in our country, colors and creeds, are loyal to the United States. We have no need for a Buchenwald; we have no need for an Auschwitz. Let us hope that never will we need the idea of such a concentration camp.

I deeply respect the gentleman from Hawaii (Mr. MATSUNAGA) and I want the Members to know that I will strongly support the legislation offered by the gentleman from Hawaii (Mr. MATSUNAGA).

Madam Chairman, I yield back the balance of my time.

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

Madam Chairman, we have heard a great number of dissertations here this afternoon concerning symbols. First of all, Madam Chairman, let me state that I have served on the Committee on Internal Security, and was present and took part during much of the vast testimony received by our committee. For this reason I support the amendment in the nature of a substitute offered by my colleague, the gentleman from Missouri (Mr. ICHORD).

You know, talking about symbols, an interesting aspect of this whole thing is that my father came over here from Germany in 1913, and fought for America in World War I; 25 years later, four of his sons enlisted to serve this country during World War II. Yet, because my father was a native of Germany, when we enlisted in 1942, we still had to sign affidavits forsaking all allegiance to Germany, even though he fought in World War I as an American citizen. I did not find this offensive, not in the least. In fact, I was proud to do it, because I did not want my country to have anyone in the military who did not have the patriotism and loyalty to fight for the United States.

Further, I have many relatives behind the Iron Curtain in Hungary and East Germany today, probably as many as I have in this country, but I still want this country to remain safe. If this legislation is necessary to secure the protection of this country, then I think it is imperative.

Again I am not saying that the action taken in 1941 or 1942 was justified. In

fact, many innocent people were harmed, and I sympathize with those people. But it should be remembered that our Nation was at war at the time.

The Internal Security Act itself did not go into effect until 1950, 8 years later.

I am not offended by this law designed to retain the security of this country. I hope it will never have to be used. But, by the same token, I am glad it is there, because if such procedures must be used there should at least be some guidelines.

All Members of this body should pay particular attention to the gentleman from Ohio (Mr. ASHBROOK) and to the gentleman from Missouri (Mr. ICHORD). They have for over 2 years attended the hearings held by the Committee on Internal Security and—and I repeat this is 2 years and not a few hours—they have listened to more than 35 witnesses and studied more than 230 submitted statements. The committee has compiled almost 1,000 pages of testimony. If you are looking for someone knowledgeable, then these two men particularly can guide us here this afternoon.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri (Mr. ICHORD).

The question was taken; and on a division (demanded by Mr. ICHORD), there were—ayes 22, nays 68.

Mr. ICHORD. Madam Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, strike out line 3 and all that follows down through page 2, line 8, and insert in lieu thereof the following:

"That (a) section 4001 of title 18 of the United States Code is amended by designating the first and second paragraphs thereof as '(b)(1)' and '(2)', respectively, and by inserting at the beginning thereof the following:

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

'(b) The section heading of such section 4001 is amended to read as follows:

"4001. Limitation on detention; control of prisons.'

"(c) The chapter analysis of chapter 301 of such title 18 is amended by striking out the item relating to section 4001 and inserting in lieu thereof the following:

"4001. Limitation on detention; control of prisons."

AMENDMENT IN THE NATURE OF A SUBSTITUTE FOR THE COMMITTEE AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Madam Chairman, I offer an amendment in the nature of a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD in the nature of a substitute for the committee amendment: Strike out matter proposed to be stricken and insert in lieu thereof the following:

"That the prior enactment and repeal herein of provisions of Title II of the Internal Security Act of 1950 (50 U.S.C. 811-826) shall

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not be construed to preempt, disparage, or affect the powers accorded to or the duties imposed upon the President under the Constitution and other laws of the United States: *Provided, however,* That no citizen of the United States shall be apprehended or detained for the prevention of espionage or sabotage solely on account of race, color, or ancestry."

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

Mr. ICHORD. Madam Chairman, I offered the previous amendment purely on the basis of libertarian principles. It was my firm belief that what happened to the Japanese would be less likely to happen if we would retain title II on the books. We heard a great many libertarian speakers, gentlemen who are much more eloquent than I. And I would state at the outset that I agree with all those libertarian principles stated.

However, the gentleman from Hawaii overlooked the fact that in title II is a guarantee of the writ of habeas corpus. That is the reason why I maintained very firmly that what happened to the Japanese in World War II would not have happened if title II had been on the books.

I ask the Members of the House today to legislate, not on the basis of unfounded fears, but on the basis of fact and logic. As a matter of fact, at one time we had considered reporting out the repeal of title II as a straight repealer, but after studying the problem—and we did study the problem very intensely we decided to amend rather than repeal. These are the hearings of the House Committee on the Judiciary; these are the hearings of the House Committee on Internal Security, 1,000 pages of testimony, witnesses heard on both sides; 101 pages, consisting of 33 pages of the House Committee on Internal Security report. No witnesses heard on the opposing side.

Madam Chairman, at this time I rise in the security interest of the country. It is the Railsback amendment to which I am adamantly opposed. The office of my good friend "Tip" O'NEILL, in making the whip calls around to the Members of the House, stated, "Are you in favor of 234, which would prohibit detention camps, or are you in favor of 820, which would maintain detention camps?"

I would have asked the question like this: Are you in favor of H.R. 234, which would prohibit the apprehension of saboteurs and espionage agents, or are you in favor of H.R. 820, which would permit the apprehension of saboteurs and espionage agents?

Let me tell the Members of the House why. I hope that the Members were on the floor yesterday when I questioned the gentleman from Illinois (Mr. RAILSBACK) as to just how the FBI was going to prevent espionage agents and saboteurs from working in the country in the event of war. And let us bear in mind we are strictly dealing with the wartime powers of the President.

He said that we would put FBI agents on their tails. But I asked the gentleman—and I will yield to the gentleman at this time—how are we going to tail the saboteurs and espionage agents

which the gentleman agreed were in the United States of America? We surely will not wait until the sabotage is committed.

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

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

Mr. RAILSBACK. Madam Chairman, let me just repeat the answer so that everybody knows what the answer was. We would do exactly what J. Edgar Hoover said could have been done in 1942 without the Executive order which was issued by President Roosevelt. In other words, J. Edgar Hoover had enough confidence in himself, as the gentleman from California in debate mentioned a short time ago, that he could keep those suspicious persons under surveillance. We have on the statute books normally available tools in the espionage statutes. They guard against conspiracies to spy as well. We would not have to wait for the mischief to be worked. Planning a crime is itself a crime. The difference is we would have to use legal process. We would have to have probable cause that a crime was committed. We would have to arrest and to charge and grant the right to confront the accusers and the right to a jury trial.

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

Madam Chairman, I take this time to find out what is in the amendment offered by the gentleman from Missouri. He did not tell the House what it contained. I yield to the gentleman from Missouri to tell us what is in his amendment.

Mr. ICHORD. Madam Chairman, let me say to the gentleman from Illinois that we are dealing with the wartime powers of the President of the United States. The Department of Justice has said that it is not in favor of the amendment of the gentleman from Illinois (Mr. RAILSBACK). They do not consider that it is necessary. However, it is my contention that if the amendment is adopted, the amendment of the gentleman from Illinois will keep the President and his executive agents from protecting the security of the United States.

Mr. YATES. Then the gentleman's amendment is to strike the amendment of the gentleman from Illinois.

Madam Chairman, as I understood the purpose of the amendment of the gentleman from Illinois—and he can correct me if I am wrong—as I understood what he said yesterday in explaining it and as it was explained by other members of the committee, the purpose of the gentleman's amendment was to make sure that in the event there were to be detentions of a mass nature, of more than one individual person, that it would require an act of Congress in order to do this. Is this the basic purpose of the gentleman's amendment?

Mr. RAILSBACK. That is right. The amendment says this. It says:

No citizen shall be imprisoned or other-

wise detained by the United States except pursuant to an Act of Congress.

In other words, this would require that before anything happened similar to what happened in 1942, there would be at least an act of Congress.

Mr. YATES. In other words, there could not be the same kind of executive action that was undertaken by President Roosevelt in his Executive order of detention of the more than 100,000 Japanese Americans at the time without there having been an act of Congress. Is that the purpose of the gentleman's amendment?

Mr. RAILSBACK. That is exactly right. It applies to citizens. It does not affect what can be done with enemy aliens. It applies to American citizens.

Mr. YATES. I thank the gentleman. I shall vote against the Ichord amendment, and I shall vote for the committee bill.

Madam Chairman, the time has come to erase from the statute books this last vestige of the iniquitous Internal Security Act of 1950. I voted against the act when it was before the House at that time. I have opposed it ever since. As we predicted at the time of its passage, most of its provisions were unconstitutional, an agreement since sustained by the Supreme Court of the United States.

I would urge the House to overwhelmingly vote to rescind title II.

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

Madam Chairman, I would like to ask a question to clarify one point. In the colloquy with the gentleman from Illinois I think something was left in the minds of the House that was not accurate on the legislative history up to this point.

The gentleman from Illinois (Mr. YATES) implied in a question of the gentleman from Illinois (Mr. RAILSBACK) that a statute would have to be passed in order to have some protection that the gentleman did not intend to give by his amendment. From what the gentleman said yesterday that would not be accurate. It applies to statutes already on the books and does not apply to what would be an enabling statute.

Mr. RAILSBACK. Let me say I agree with the gentleman. This can be any act of Congress. I do not think the gentleman from Illinois meant to imply otherwise.

Mr. YATES. That is correct.

Mr. RAILSBACK. It simply says that arrest or internment of an American citizen must be under an act of Congress. There are already many acts that would permit, with all the safeguards, people to be confined, such as the Espionage Act, the Narcotics Act, and the Internal Revenue Act.

It would involve all the criminal code which is already in existence.

What I say to the gentleman is, if we had a situation which required action—say that there was an invasion and say that the courts were disrupted and the courts could not operate—there is not any question in my mind but what we would be in a state of martial law in that

event, and I believe the gentleman wants to make this clear.

Mr. ASHBROOK. We should make that clear. I got the implication when the gentleman said that Congress must act that it would not necessarily apply to those acts already taken, which, as I understand it, was not the intention of the gentleman from Illinois.

Mr. RAILSBACK. It would not require a prospective act. It would involve all acts on the books.

Mr. ASHBROOK. That could be taken or have been taken.

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

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

Mr. ICHORD. I would point out to the Members of the House that the gentleman from Illinois, by offering this committee amendment, first repeals the only act on the books which would permit the authorities in the United States to pick up people whom we have reasonable cause to believe would commit espionage and sabotage.

They repeal the act, and then they say that no one shall be picked up unless there is an act on the books. This is the point I am making. The security interests of the United States of America are not protected.

This is the reason why I am opposed to the Railsback amendment and the reason why I have offered the substitute.

The gentleman from Illinois well knows that the Department of Justice has not agreed to this amendment. I read from a letter from Mr. Mardian dated May 14, 1971. The last paragraph thereof states as follows:

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

The amendment of the gentleman from Illinois is a priviso. I will go along with the repeal of title II of the Internal Security Act outright. I have always maintained that. But do not harm the security interests of the United States of America. This is what you are doing by the Railsback amendment, and it is not agreed to by the Department of Justice.

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

The amendment offered by the committee reads as follows:

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

Now, the Ichord substitute would strike out that clear language—clear as a crystal spring—and would substitute rather arcane, strange words, language susceptible to many interpretations.

This is certain: If by some unusual construction of our statutes the President could set up a detention camp then this substitute amendment would not prevent such an action. We want to prevent such action. We want with constitutional limits to prevent any authority, any mere semblance of authority given to the President to set up any kind of detention camp.

As a matter of fact, the substitute

language, in my estimation, would encourage the setting up of detention camps despite all the assurances of the gentleman from Missouri. I would say indeed that the speeches of the gentleman from Missouri are like cypress trees—they are stately and tall, but they bear no fruit. There is no fruit in the substitute amendment that he offers.

The President under his substitute amendment could detain without let or hindrance; he would have carte blanche. The Ichord substitute indeed places the stamp of approval for the executive to establish detention camps. I emphasize this amendment would have the tendency to permit detention camps. That is what we on the Committee on the Judiciary object to. Prevention of such camps is the whole purport of the Matsunaga bill.

This Ichord amendment is dangerous. It is presented in glittering language, but indeed there is no steel behind the shine. The whole drive and purpose of the Matsunaga repeal legislation would be indeed set at naught, and I hope that the committee therefore will reject the substitute and vote for the committee amendment.

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

Madam Chairman, I would like to suggest to the membership that the issue on the pending amendment is quite different from the issue on the previous substitute.

I opposed the Ichord substitute a moment ago because I favor repeal of title II of the 1950 act both as an act which contains many provisions which are naturally unpalatable to an American and because I think it is entirely unnecessary.

I believe that the war powers of the President of the United States in a situation of war or invasion or insurrection, to which the 1950 act was addressed, are adequate without having the 1950 act and its unpalatable features on the books. Therefore I was glad to support the repeal.

However, the issue here is quite different. What we are doing in this amendment is accepting the fact that the 1950 act should be repealed and we are merely trying to strike out the language of the Railsback amendment which goes beyond repeal, and does something in addition.

What it does in addition I really do not know, and that is one of the reasons why I am not in favor of it at the present time without further consideration of it.

The gentleman from Illinois (Mr. RAILSBACK) thinks that it in some way restricts the war powers of the President under the Constitution, because he said during the hearings:

Maybe we should do something affirmatively other than just repeal to make sure that we have restricted the President's wartime powers.

The gentleman from Missouri (Mr. ICHORD) thinks it does that, too. Frankly, I do not know whether either of them is right or not.

My feeling is that we cannot restrict the President's constitutional wartime powers very materially by what we do

here by legislation and that they will probably remain pretty much the same whether the Railsback amendment is in there or not. But, without any further hearings or consideration, I am not prepared to attempt to restrict or to affect the wartime powers of the President, or to go beyond repealing the detention camp law here this afternoon.

I do not agree with my distinguished chairman that this amendment puts this detention business back in the law at all. It is gone when we repeal it, as we should repeal it. All this amendment does is to say that, whatever we have done, we have not affected the constitutional wartime powers of the President, whatever they may be. We leave what they may be up for future reference, and to determination by the courts. I think a clean repealer of title II with nothing further in the way of language would be best. But, that is essentially what this amendment is.

As a member of the committee that wrote the Railsback amendment, I regret and apologize for the fact that I did not think this thing through at the time. However, I have had the benefit of 2 days of debate and of considerable consideration, and, after reflection, this is the way I feel about it.

I am not prepared here today to go into the question of the general war powers of the President. I think the gentleman from Illinois and the gentleman from Missouri may have a point here, but to vote beyond the repealer of title II of the 1950 Internal Security Act and, perhaps put, or attempt to put, some undetermined restriction on the constitutional powers of the President of the United States, I am not prepared to do that here this afternoon.

Unless you are in favor of doing that, I would suggest you ought to support this amendment; and you should support it if you are opposed to title II and favor its repeal, as I do.

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

Madam Chairman, I rise in opposition to the substitute amendment which has been offered by the gentleman from Missouri (Mr. ICHORD).

Madam Chairman, I would like to clear up one small point since I do not think the gentleman from Missouri desired to mislead the committee. The gentleman's amendment, whatever its merits or demerits, contains some provisos and I think the committee ought to be aware of that.

Mr. ICHORD. Madam Chairman, will the gentleman yield to me at that point?

Mr. MIKVA. I shall be glad to yield to the gentleman from Missouri in a moment.

Madam Chairman, the substitute amendment not only repeals the Railsback amendment, but also provides some language which is very mischievous. I do not know what it means. The first sentence says that nothing in this bill shall repeal the Constitution. That is rather obvious. The second sentence says that we should not discriminate on account of race, creed or color. I do not see how anyone could gain any comfort in voting for the substitute amendment, particularly

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the proviso which states that we are not repealing the Constitution. That is the best example of surplusage that I can imagine.

Therefore, I urge the committee, however it might feel about anything else, to vote against the substitute amendment.

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

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

Mr. ICHORD. I will say to the gentleman from Illinois that the purpose of the amendment is to make—if you will read the case of the Youngstown Steel Co.—I feel very strongly that if we repeal title II, which we have already done; title II is not now in the legislation—but if we repeal title II and then place this amendment in we will be restricting the powers of the President in an emergency situation. I thought we made a mistake on the repeal of title II.

Mr. MIKVA. Is the gentleman from Missouri suggesting that there is something this Congress can do to alter the constitutional powers of the President? Does the gentleman say this Congress can take away the constitutional powers of the President?

Mr. ICHORD. I will say to the gentleman from Illinois that the Hirabayashi case stated that the war powers of the Presidency are to wage war successfully. But if you will look at the Youngstown Steel case you will find that that is a power which can be restricted. It is a joint power shared by the President of the United States and the Congress, and if the Congress takes the action of repealing title II and does not make it clear that the President will have the power to protect the security interest of the United States, we are getting into a situation where the President will not have the power to pick up known espionage agents and saboteurs.

Mr. MIKVA. I would simply say to the gentleman that the powers of the President are set forth under the Constitution and are not subject to limitations by this Congress or any future Congress. The first sentence of the substitute amendment talks about nothing but the constitutional powers of the President.

With all due deference to my colleague, the gentleman from Missouri, I would say that I have read the Hirabayashi case several times, and I reread it yesterday after the gentleman quoted from it, and if the gentleman from Missouri can find anything in the decision at all that says the Congress has the power to repeal the Constitution then I will eat the whole decision.

Mr. ASHBROOK. Madam Chairman, will the gentleman yield

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

Mr. ASHBROOK. Would it not be more accurate to say, I will ask my friend, the gentleman from Illinois, that we are talking about situations where we are not certain what the constitutional power of the President is? If it is clear the President has the constitutional power to act, then I think the gentleman is right, the Congress cannot do so. Take the present wage freeze, for example.

Mr. MIKVA. I would remind the gentleman from Ohio that the language before the House, and we are dealing with the specific language in the substitute amendment, says that nothing "shall be construed to preempt, disparage, or affect the powers accorded to or the duties imposed upon the President under the Constitution."

And to me, as I say, it seems that those words are at best surplusage and, since they may be mischievous, that they ought not be enacted.

Mr. BROWN of Michigan. Madam Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Michigan (Mr. Brown).

Mr. BROWN of Michigan. Madam Chairman, I have listened to the debate here with great interest, and it seems very evident that if you do not have to recite these things to protect the President then you also do not need to recite them in order to protect the rights of the Congress.

Mr. MIKVA. But that is what happened in 1942; that is the issue before the House, and that the answer of the House is that we would not like to see that action repeated.

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

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

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

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

Mr. ICHORD. Madam Chairman, I would point out—and I wish to thank the gentleman from Georgia for yielding to me—and I am back again to what happened in 1942, and again I say that that did not happen under title II, which we have just repealed.

But the Youngstown Steel case lays down the principle that the war powers are the powers that are lodged jointly in the Congress and the President. Now, we have just repealed title II, and as a matter of construction, if we take that action without making certain that the Presidential wartime powers are retained, we will get into a situation where we cannot protect the security of this Nation, and that is the purpose of the amendment. We are not going back to the issue of detention camps or concentration camps, or whatever you want to call them; that is not involved at all. It is purely a matter of making certain that we do not inhibit or prohibit the President of the United States from exercising his constitutional war powers.

Mr. YATES. Madam Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. FLYNT. Madam Chairman, I yield to the gentleman from Illinois for that purpose.

PARLIAMENTARY INQUIRY

Mr. YATES. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Illinois will state his parliamentary inquiry.

Mr. YATES. Madam Chairman, the gentleman from Missouri (Mr. Ichord) keeps referring to the fact that we have

repealed title II. My parliamentary inquiry is: Have we done so?

The CHAIRMAN (Mrs. GRIFFITHS). The Chair will state that we have voted on the amendment in the nature of a substitute, and that was rejected.

Mr. YATES. So that the fact is that we have not repealed title II.

The CHAIRMAN. The Chair will state that that is the correct answer to the parliamentary inquiry of the gentleman from Illinois.

Mr. YATES. I thank the Chairman.

Mr. ICHORD. Madam Chairman, if the gentleman will yield further, I will agree that I was in error in that statement, but I have always stated that I would vote for repeal under certain conditions. Now we are on a completely different issue. I do intend to vote for the repeal of title II, but I do not intend to do so if the Railsback amendment is in the bill. That is what the Department of Justice is not in favor of, and what I am opposed to.

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

Madam Chairman, I would like to point out here that, just as the gentleman from Illinois says, there is nothing that can be done by statute that will disparage the constitutional powers of the President in an emergency situation.

But if you do not include the language, which is called the Railsback language—that no citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress—you get right back to the situation that existed at the time of the imprisonment of the Nisei. Now the law would be precisely the same as that which existed at that time except for the additional language that the gentleman from Missouri purports to put in. But I cannot understand that language for the life of me.

If you notice the reading of this language, it says:

Provided, however, that no citizen of the United States shall be apprehended or detained for the prevention of espionage or sabotage solely on account of race, color, or ancestry.

Why persons were never purported to be detained on those bases. They were purported to be detained, not because they were Japanese, but because people thought that those persons of Japanese ancestry might be tempted to espionage or sabotage and therefore the safest thing was to detain them.

So if we adopt this amendment, we will put the law in precisely the same position as it was when we had the detention camps which were established under the purported implied authority of constitutional executive authority.

Now all that we need to do is to repeal title II and to provide clearly that no one shall be detained unless he is detained as a result of an act of Congress. Then, if we get to some point that we need detention camps—and God forbid that that time will ever come—we could pass such a law. But such a law must be within the safeguards of the Constitution. Presently, if we repeal title II and if we include the provision that no per-

son shall be detained except by an act of Congress, we cannot possibly disparage any implied powers in the Constitution of the United States.

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

Mr. ECKHARDT. I yield to the gentleman.

Mr. ICHORD. I would say to the gentleman that the purpose for the inclusion of the language "race, color or ancestry" is this. Many of the witnesses who appeared before the House Committee on Internal Security contended that Japanese-Americans were detained in World War II purely because of their race or their ancestry.

In regard to the other point that the gentleman made, I am sure the gentleman will recall during the Korean war—

Mr. ECKHARDT. I have yielded to the gentleman for a question and I am still waiting for the gentleman's question.

Mr. ICHORD. I am sure the gentleman will recall that during the Korean war, President Truman seized the steel mills. There was a 6-to-3 Supreme Court decision to the effect that that seizure was unlawful. It was a divided opinion. But if you will read the opinion closely, the court held that President Truman could not seize the steel mills under his wartime powers because the Congress had enacted the War Defense Production Act as well as the Taft-Hartley Act and that would require the President to act under those two laws rather than under his constitutional wartime powers.

Mr. ECKHARDT. I am still waiting for a question from the gentleman. But I do not think this touches on my discussion.

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

Mr. ALBERT. Madam Chairman, I move to strike out the last word.

Madam Chairman, with all the legalistic arguments brushed aside, I think it remains a fact, and a sad fact and a sad chapter in the history of America that there was a time when it was believed that many persons of Japanese origin—just because they were Japanese—might be guilty at some future date of sabotage.

I do not think there is any more reason for believing that than there would have been reason to believe that Americans of English ancestry might have been guilty of sabotage during the War of 1812.

In fact, I have often thought of a great speech delivered several years ago by a great former Member of the House, the late gentleman from Maine, Mr. Frank Fellows, whom older Members will remember.

Here is what he said:

Whenever these matters are under discussion there immediately come to my mind the histories of two native-born white Americans: one first saw the light of day in Massachusetts, the other in Kansas. Each has acted as chairman of the Communist Party. According to House Report No. 208 it was Kansas-born Earl Browder who read to 2,000 applicants for Communist Party membership in the New York district in 1935 the following solemn pledge: "I pledge myself to rally the masses to defend the Soviet Union, the land of victorious socialism."

On the other side of the picture I see what

was to me pleasantly surprising, as it may be to you.

Before the House Subcommittee on Immigration and Naturalization frequently appears what we would term a Japanese-American, although I dislike cataloging any group as hyphenated Americans. This young man, 1 of 5 boys in a large family born in Utah to Japanese parents, with each of his brothers, was the recipient of a Purple Heart. They were members of the Four Hundred and Forty-second Regiment Combat Team of the United States Army, which saw desperate fighting in Italy. Immediately after Pearl Harbor, the property in the West owned by this family was taken, and the mother was interned behind barbed wire. Notwithstanding this, the mother encouraged her sons in their desire to enlist, which all 5 did. One boy was killed in action. One is still in the hospital. All were wounded. They were but 5 of 33,300 sons of Japanese parents who served in the United States armed services during the Second World War—part in the Pacific and part in Europe. Thirty-one thousand saw overseas service. After 120 days of fighting, what started out as a team of a little over 3,000 men had total casualties of 9,486. During its rescue of the Texas battalion of 189 white Americans in the Vosges Mountains of northeast France in October 1944, 200 Japanese-Americans were killed, and more than 1,500 casualties suffered. They were a much decorated group.

The mother of those boys was Mrs. Massaoka. One of these five sons was Mike Massaoka, who, along with his wife, has been a friend of Mrs. Albert and myself for many years. I can testify that they are good neighbors and fine Americans.

Madam Chairman, if I understand this matter correctly, this is an attempt to erase from the statutes of the United States a law which has been enacted since those concentration camps were built the last vestige of any authority to incarcerate people because they are related to people who are at war with us.

Mr. SCHERLE. Madam Chairman, I rise in support of the amendment.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. SCHERLE. I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I thank the gentleman for yielding.

Madam Chairman, I would point out that the speech of our distinguished and beloved Speaker was not directed to the substitute amendment for the committee amendment. It was directed to title II, and title II is not in issue at this time.

I would like to ask the distinguished chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER), one question which makes me feel very strongly that there is a need for the substitute amendment. The Senate of the United States during the 91st session did pass a bill repealing title II.

The subcommittee of the Committee on the Judiciary has reported H.R. 234 to this House repealing title II with the Railsback amendment. Is there any other difference between the measure and the bill reported by the Senate and sent to the House which was not acted upon?

Mr. KASTENMEIER. If the gentleman will yield, in reply to my friend, the gentleman from Missouri, I would say yes.

Mr. ICHORD. Other than the Railsback amendment?

Mr. KASTENMEIER. If the gentleman

will permit me, the House bill does not view as necessary the retention of the findings of the section 101 of the Senate bill, which the Senate did.

Mr. ICHORD. Then the bill reported by the subcommittee of the Committee on the Judiciary repealed the findings of the Congress passed in regard to the existence of a Communist conspiracy. Is that correct?

Mr. KASTENMEIER. That is correct.

Mr. ICHORD. This is my main reason, Madam Chairman, for favoring the adoption of this amendment.

Mr. KASTENMEIER. Madam Chairman, I am curious why the gentleman from Missouri raised that question, because I think he is as familiar with the matter as anyone else, and should be, that those findings are already included in toto in title I of the Internal Security Act of 1950. If anyone cares to compare them, he will find them in the Committee on Internal Security committee print on the Internal Security Act of 1950. Title I lists the first 13 findings, most of which are precisely the same as those in title II which is now being repealed. To keep those would be a ridiculous redundancy to say the least, because they would be hanging there without an object, duplicating findings found as a preface to title I.

I think in that regard the Senate made a legislative mistake. We have attempted to correct that.

I will also say in conclusion, and I want to make this brief, that I think the amendment offered by the gentleman from Missouri is, indeed, a serious and mischievous one. He would put himself back where he claimed we might be, that is to say, he would attempt to reserve in some sense the authority which the President does have or is supposed to have unilaterally and without respect to act of Congress, to install camps, without benefit even of the safeguards that he had recommended in his own substitute.

I suggest, Madam Chairman, that to adopt the amendment would undo much of what we are attempting to accomplish this afternoon, and I urge it be rejected.

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

Mr. KASTENMEIER. I yield briefly to the gentleman from Missouri.

Mr. ICHORD. Madam Chairman, I observe that the Senate only repealed 14 and 15, but they kept these findings, and I read section 101 which the gentleman is repealing by his bill:

Sec. 101. As a result of evidence adduced before various committees of the Senate and the House of Representatives, the Congress hereby finds that—

(1) There exists a world Communist movement which in its origins, its development, and its present practice, is a world-wide revolutionary movement . . .

I still do not understand why the gentleman's committee repealed these findings, while the Senate refused to repeal them.

Mr. KASTENMEIER. The gentleman has just read and the House has heard the findings that started out as one of 13. Let me review in the same act title I:

There exists a world Communist movement which in its origins, its development . . .

It is precisely the language which the gentleman is reciting, and which would be a redundant expression related to nothing. It already exists in title I and relates to title I.

Mr. ICHORD. Then what was the purpose of the Senate in not doing that?

Mr. KASTENMEIER. I do not know. In my humble view I think the Senate made a legislative mistake.

Mr. POFF. Madam Chairman, I move to strike the last two words.

Madam Chairman, on yesterday this House for a period of 3 hours addressed itself articulately and eloquently to precisely the issue which is here involved in this amendment. Nothing more can be said that has not already been said.

I pause parenthetically to pay tribute to this House. I am proud, as one of its Members, of the conduct and demeanor of the participants in this debate, of the high tone and the scholarly approach all have taken, and the result which apparently is about to be achieved.

Mr. GERALD R. FORD. Madam Chairman, will the gentleman from Virginia yield?

Mr. POFF. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Madam Chairman, in light of the emotion that has been generated, in light of the very fine legal arguments that have been made, I believe it is time for this House to make a decision. So far as I am personally concerned, I intend to support the House Committee on the Judiciary. I support the Railsback amendment in the version of the Committee on the Judiciary. Therefore, I oppose the amendment offered by the gentleman from Missouri.

It seems to me that this matter, which is one of considerable controversy and considerable honest legal differences, can best be decided by the Members making their choice here and now. The well is dry. No further debate will sway the conviction of any Member.

For myself, it seems to me the weight of the evidence and the argument favors the action proposed by the Committee on the Judiciary, with the Railsback amendment, in opposition to the amendment offered by the gentleman from Missouri.

Mr. POFF. Madam Chairman, I rise in opposition to the amendment. I support the Judiciary Committee language, that language will not leave this Nation powerless to defend itself against internal threats in wartime.

The Judiciary Committee voted both to repeal and to prohibit detention camps. Repeal alone is insufficient.

The prohibition is not absolute. There is an emergency exception. In appropriate circumstances, the President can declare martial law and take whatever steps are necessary to execute the law of national self-defense.

The Supreme Court in the case of *Sterling against Constantin*, 287 U.S. 378 (1932) defines the President's discretion in the following language:

The nature of the power also necessarily

implies that there is a permitted range of honest judgment as to the measures to be taken in meeting force with force, in suppressing violence and restoring order, for without such liberty to make immediate decisions, the power itself would be useless. Such measures, conceived in good faith, in the face of the emergency and directly related to the quelling of the disorder or the prevention of its continuance, fall within the discretion of the executive in the exercise of his authority to maintain peace.

Of course, whether the executive has correctly determined to declare martial law is ultimately a question for the courts to decide. As a practical historical matter, judicial scrutiny has followed well after the crisis had passed. It was not until the Civil War had ended that the Supreme Court ruled that it was unconstitutional to deny one charged with conspiring against the Government a trial so long as the courts were open. It was not until after the Japanese had been turned back in the Pacific that the Supreme Court decided that a concededly loyal detainee in a detention camp was entitled to an immediate release. It was not until after World War II ended that the Supreme Court ruled that martial law had been improperly declared in Hawaii.

What the Judiciary Committee language means is that the executive branch cannot detain unless Congress has provided the authority except in those cases where law no longer binds, that is, in cases where martial law may be declared.

The Judiciary Committee bill would not leave this Nation defenseless in wartime.

Nothing in the bill would affect the validity of 50, United States Code 21, which authorizes the apprehension of aliens during wartime. It was this law which the President used to defend the Nation in December 1941. In less than 3 days after the attack on Pearl Harbor, the FBI had taken into custody 3,846 enemy aliens without violence and without any authorization for detention camps.

In the event of another Pearl Harbor, this statute would be used again. A number of similar or related statutes are available, including 8, United States Code 1185, 18, United States Code 2152, 18, United States Code 2385, and 18, United States Code 2388.

If additional statutes prove necessary, the President can request emergency war powers within a matter of hours.

If his request is denied or delayed, and if the emergency justifies martial law, he can act without benefit of statutory authority, subject only to subsequent judicial restraint.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri (Mr. ICHORD), for the committee amendment.

TELLER VOTE WITH CLERKS

Mr. ICHORD. Madam Chairman, I demand tellers.

Tellers were ordered.

Mr. ICHORD. Madam Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs.

POFF, ICHORD, KASTENMEIER, and ASH-BROOK.

The Committee divided, and the tellers reported that there were—ayes 124, nays 272, not voting 38, as follows:

[Recorded Teller Vote]

[Roll No. 255]

AYES—124

Abbitt	Fountain	Purcell
Abernethy	Fuqua	Randall
Andrews, Ala.	Griffin	Rarick
Archer	Gross	Rhodes
Ashbrook	Grover	Roberts
Baker	Hagan	Robinson, Va.
Baring	Hall	Rogers
Belcher	Harsha	Rousselot
Bennett	Hebert	Runnels
Bevill	Henderson	Ruth
Biaggi	Hogan	Satterfield
Blackburn	Hull	Scherle
Blanton	Hunt	Schmitz
Broyhill, N.C.	Hutchinson	Scott
Broyhill, Va.	Ichord	Sebelius
Buchanan	Johnson, Pa.	Shipley
Burleson, Tex.	Jonas	Shriver
Burlison, Mo.	Jones, Ala.	Smith, Calif.
Cabell	Jones, N.C.	Smith, N.Y.
Caffery	Jones, Tenn.	Snyder
Casey, Tex.	King	Spence
Chappell	Kuykendall	Steiger, Ariz.
Clancy	Landgrebe	Stephens
Clausen	Landrum	Stratton
Don H.	Latta	Stubblefield
Clawson, Del.	Lennon	Stuckey
Collins, Tex.	McMillan	Taylor
Colmer	Mahon	Thompson, Ga.
Crane	Martin	Thompson, Wis.
Daniel, Va.	Mathis, Ga.	Veysey
Davis, Ga.	Miller, Ohio	Wagonner
Davis, Ws.	Mills, Md.	Whittem
Dennis	Minshall	Williams
Devine	Mizell	Wilson, Bob
Dickinson	Montgomery	Winn
Dorn	Natcher	Wylie
Dowdy	Nichols	Wyman
Downing	Passman	Young, Fla.
Fisher	Patman	Young, Tex.
Flowers	Pirie	Zion
Flynt	Poage	
	Price, Tex.	

NOES—272

Abourezk	Chisholm	Fulton, Tenn.
Absug	Clark	Galiheranakis
Adams	Clay	Gaydos
Albert	Cleveland	Gettys
Alexander	Collier	Giaimo
Anderson,	Collins, Ill.	Gibbons
Calf.	Conte	Gonzalez
Anderson, Ill.	Conyers	Goodling
Tenn.	Corman	Grasso
Andrews,	Cotter	Gray
N. Dak.	Coughlin	Green, Oreg.
Annunzio	Culver	Green, Pa.
Arends	Daniels, N.J.	Griffiths
Ashley	Danielson	Gude
Aspin	Davis, S.C.	Halpern
Aspinwall	de la Garza	Hamilton
Barrett	Dellenback	Hanley
Begich	Dellums	Hanna
Bell	Dent	Hansen, Idaho
Bergland	Derwinski	Hansen, Wash.
Biesler	Dingell	Harrington
Bingham	Donohue	Harvey
Bistnik	Dow	Hastings
Boggs	Drinan	Hawkins
Boland	Duncan	Hays
Bolling	du Pont	Hechler, W. Va.
Bow	Dwyer	Heckler, Mass.
Brademas	Eckhardt	Heilstoksi
Brinkley	Edmondson	Hicks, Mass.
Brooks	Edwards, Ala.	Hicks, Wash.
Broomfield	Elberg	Hillis
Brotzman	Erlenborn	Holifield
Brown, Mich.	Esch	Horton
Brown, Ohio	Evans, Colo.	Hoover
Burke, Mass.	Fascell	Hungate
Burton	Findley	Jacobs
Byrne, Pa.	Fish	Johnson, Calif.
Byrnes, Wis.	Flood	Kath
Byron	Foley	Kastenmeier
Camp	Ford, Gerald R.	Kazan
Carey, N.Y.	Ford, William D.	Keating
Carney	Forsythe	Keith
Carter	Fraser	Kemp
Cederberg	Frenzel	Kluczynski
Celler	Frey	Koch
Chamberlain	Fulton, Pa.	Kyi
		Kyros

Leggett	Nelsen	Saylor
Lent	Nix	Schneebel
Link	Obey	Schwengei
Lloyd	O'Hara	Seiberling
Long, Md.	O'Konski	Sisk
Lujan	O'Neill	Skubitz
McClory	Patten	Slack
McCloskey	Pelly	Smith, Iowa
McClure	Pepper	Springer
McCollister	Perkins	Stafford
McCormack	Pettis	Stanton,
McDade	Peyser	J. William
McDonald,	Pickle	Stanton,
Mich.	Pike	James V.
McFall	Fodell	Steele
McKevitt	Poff	Steiger, Wis.
McKinney	Powell	Stokes
Macdonald,	Preyer, N.C.	Teague, Calif.
Mass.	Price, Ill.	Thompson, N.J.
Madden	Pryor, Ark.	Thone
Maillard	Pucinski	Tiernan
Mann	Quie	Udall
Mathias, Calif.	Quillen	Ullman
Matsunaga	Railsback	Van Deerlin
Mayne	Rangel	Vander Jagt
Mazzoli	Rees	Vanik
Meeds	Reid, Ill.	Vigorito
Melcher	Reid, N.Y.	Walde
Metcalfe	Reuss	Ware
Mikva	Riegle	Watts
Miller, Calif.	Robison, N.Y.	Whalen
Mills, Ark.	Rodino	Whalley
Minish	Roe	White
Mink	Roncalio	Whitehurst
Mitchell	Rooney, N.Y.	Wiggins
Mollohan	Rooney, Pa.	Wilson
Monagan	Rosenthal	Charles H.
Moorhead	Rostenkowski	Wolf
Morgan	Roush	Wright
Morse	Roy	Wyatt
Mosher	Royal	Wydler
Moss	Ruppe	Yates
Murphy, Ill.	Ryan	Yatron
Murphy, N.Y.	St Germain	Zablocki
Myers	Sandman	Zwach

NOT VOTING—38

Addabbo	Gallagher	McKay
Badillo	Garmatz	Michel
Bray	Goldwater	Scheuer
Burke, Fla.	Guibser	Shoup
Conable	Haley	Sikes
Delaney	Hammer-	Staggers
Denholm	schmidt	Steed
Diggs	Hathaway	Sullivan
Dulski	Jarman	Symington
Edwards, La.	Kee	Talcott
Eshleman	Long, La.	Teague, Tex.
Evins, Tenn.	McCulloch	Terry
Frelinghuysen	Widnall	Widnall

So the amendment in the nature of a substitute for the committee amendment was rejected.

AMENDMENT OFFERED BY MR. THOMPSON OF GEORGIA TO THE COMMITTEE AMENDMENT

Mr. THOMPSON of Georgia. Madam Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON of Georgia to the committee amendment: Page 2, line 15, after "Congress", strike out the period and quotation marks and insert "nor shall any citizen, including students, be forcibly transferred from one group to another group or be forced to be a part of a particular group because of his race, creed, or color by the United States except pursuant to an Act of Congress."

POINT OF ORDER

Mr. CELLER. Madam Chairman, I make the point of order that the amendment offered by the gentleman from Georgia (Mr. THOMPSON) to the committee amendment is not germane.

The CHAIRMAN. Does the gentleman from New York desire to be heard on his point of order?

Mr. CELLER. Madam Chairman, I simply wish to state that the amendment offered by the gentleman from Georgia (Mr. THOMPSON) to the commit-

tee amendment, which has just been read, is nongermane because it practically amounts to an antibusing amendment, and therefore is not germane to the purposes and purport of the bill in question.

The CHAIRMAN. Does the gentleman from Georgia (Mr. THOMPSON) desire to be heard on the point of order?

Mr. THOMPSON of Georgia. I do, Madam Chairman.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Madam Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Michigan will state his parliamentary inquiry.

Mr. GERALD R. FORD. Madam Chairman, my parliamentary inquiry is this: As I understand it, the point of order against the amendment has been made by the gentleman from New York (Mr. CELLER). It is my understanding that the gentleman from Georgia (Mr. THOMPSON) is responding to the arguments made by the gentleman from New York (Mr. CELLER) on the point of order. Is my understanding correct?

The CHAIRMAN (Mrs. GRIFFITHS). The Chair will state that the gentleman is correct in his statement.

The Chair will now hear the gentleman from Georgia (Mr. THOMPSON) on the point of order.

Mr. THOMPSON of Georgia. Thank you, Madam Chairman.

Madam Chairman, I understand the objection by the gentleman from New York. He maintains that this is not germane because, in his words, it is "an antibusing amendment."

Madam Chairman, I would like to point out that we are talking about a detention bill, an emergency detention bill, a bill whereby we are striking the provisions.

Madam Chairman, the bill before us strikes title II of the Emergency Detention Act. It pertains to the forcing of American citizens from one place against their will into other areas.

The amendment I have offered in no way includes busing. It does not include the word "busing." It may be construed by some to be an antibusing amendment, but I would like to read the amendment so that the Chair may realize my argument.

My amendment states:

"Nor shall any citizen, including students, be forcibly transferred from one group to another group or be forced to be a part of a particular group because of his race, creed, or color by the United States except pursuant to an act of Congress."

That wording practically duplicates the wording that is in the Railsback amendment, except that the Railsback amendment states:

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

So I am simply taking the imprisonment part that they have in there and I am increasing it or extending it, Madam Chairman, to the forcible transfer from one group to another, or the forcible

participation in a group that a citizen does not desire.

I maintain, Madam Chairman, that it is germane and while it may be considered in some instances to be defacing the busing of children, you must bear in mind that we do have compulsory attendance laws in these United States and to compulsorily require an individual, a student to attend a particular school, is a form of detention.

So, Madam Chairman, I maintain that it is in order and it should be debated and a vote taken on this amendment.

The CHAIRMAN. The Chair is prepared to rule.

The purpose of the bill before the committee is: first, to restrict the imprisonment or other detention of citizens by the United States to situations in which statutory authority for their incarceration exists, and second, to repeal the Emergency Detention Act of 1950—title II of the Internal Security Act of 1950—which authorizes the establishment of detention camps and imposes certain conditions on their use.

The amendment offered by the gentleman from Georgia is not germane to either of these purposes and, under clause 7 of rule XVI, is not in order.

The Chair sustains the point of order.

Mr. ICHORD. Madam Chairman, I move to strike out the last word.

Madam Chairman and Members of the House, we come to the close of debate. I want to say to the Members of the House, I have one more vote which I insist that the House take, and that is on the committee amendment.

If the committee amendment is defeated, it is my intention to vote for H.R. 234. However, if the committee amendment is adopted, I intend to cast my vote against H.R. 234. I want briefly to tell you the reasons why I intend to cast my vote against H.R. 234 if the committee amendment is adopted. This is an amendment which has not been agreed upon by the Department of Justice. There is considerable question as to what the amendment means. It was my position, I would say to the House, that the true libertarian approach would be, rather than to repeal title II, to keep it on the books in order to keep from happening what happened back in 1942.

I point out that a lot of people have been talking about what happened to the Japanese in 1942, and I say again this was a black page in American history.

Members of the House, you are not legislating on the facts. Title II was not even in existence in 1942. When these bills were originally referred to the House Committee on Internal Security, I first thought that it would be all right to repeal title II as requested by the Department of Justice. However, upon examination, I thought that keeping title II on the books and amending it to take out of it all harsh measures would be the proper libertarian approach. The Department of Justice has not agreed to the committee amendment, and this is the reason I am going to insist on rejection of the committee amendment. I read from a letter dated May 14, 1971, from Robert C. Mardian, Assistant Attorney General, page 2 thereof:

September 14, 1971

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

This committee amendment is a committee proviso. I wrote a letter to the Department of Justice in reference to the committee amendment. They do not favor repeal of title II with this committee amendment. I say, Members of the House, if you adopt the committee amendment, you are going to make a serious mistake.

The CHAIRMAN. The question is on the committee amendment.

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

TELLER VOTE WITH CLERKS

Mr. ICHORD. Madam Chairman, I demand tellers.

Tellers were ordered.

Mr. ICHORD. Madam Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. KASTENMEIER, ICHORD, POFF, and RAILSBACK.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Madam Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GERALD R. FORD. If a Member favors the committee amendment of the Committee on the Judiciary, he should vote "aye"; if he opposes the committee amendment of the Committee on the Judiciary, he should vote "no."

The CHAIRMAN. That is correct.

The Committee divided, and the tellers reported that there were—ayes 290, noes 111, not voting 33, as follows:

[Roll No. 256]

[Recorded Teller Vote]

AYES—290

Abourezk	Byrne, Pa.	Edwards, Calif.
Abzug	Byron	Eilberg
Adams	Camp	Erlenborn
Albert	Carey, N.Y.	Esch
Alexander	Carney	Evans, Colo.
Anderson,	Carter	Evins, Tenn.
Calif.	Cederberg	Fascell
Anderson, Ill.	Celler	Findley
Anderson,	Chamberlain	Fish
Tenn.	Chisholm	Flood
Andrews,	Clark	Foley
N. Dak.	Clausen,	Ford, Gerald R.
Annunzio	Don H.	Ford.
Arends	Clay	William D.
Ashley	Cleveland	Forsythe
Aspin	Collier	Fraser
Aspinall	Collins, Ill.	Frenzel
Barrett	Conte	Frey
Begich	Convers	Fulton, Pa.
Bell	Corman	Fulton, Tenn.
Bennett	Cotter	Fuqua
Bergland	Coughlin	Gallianakis
Biaggi	Culver	Gallagher
Blester	Daniels, N.J.	Gaydos
Bingham	Danielson	Gettys
Bistnik	Davis, S.C.	Gisimo
Boggs	de la Garza	Gibbons
Boland	Dellenback	Gonzalez
Bolling	Dellums	Goodling
Bow	Denholm	Grasso
Brademas	Dent	Gray
Brasco	Derwinaki	Green, Oreg.
Brinkley	Dingell	Green, Pa.
Brooks	Donohue	Grimths
Broomfield	Dow	Gubser
Brotzman	Drinan	Gude
Brown, Ohio	du Pont	Halpern
Broyhill, N.C.	Dwyer	Hamilton
Bryant, Va.	Eckhardt	Hammer-
Burke, Mass.	Edmondson	schimidt
Burton	Edwards, Ala.	Hanley

Hanna	Melcher	Roy
Hansen, Idaho	Metcalfe	Royal
Hansen, Wash.	Michel	Runnels
Harrington	Mikva	Ruppe
Harsha	Miller, Calif.	Ryan
Harvey	Mills, Ark.	St Germain
Hastings	Minish	Sandman
Hawkins	Mink	Sarbanes
Hays	Mitchell	Saylor
Hechler, W. Va.	Mollohan	Schneebell
Heckler, Mass.	Monagan	Schwengel
Heilstoki	Moorhead	Sebelius
Hicks, Mass.	Morgan	Seiberling
Hicks, Wash.	Morse	Shipley
Hillis	Mosher	Sisk
Hollifield	Moss	Skubitz
Horton	Murphy, Ill.	Slack
Howard	Murphy, N.Y.	Smith, Iowa
Hungate	Natcher	Smith, N.Y.
Jacobs	Nedzi	Springer
Johnson, Calif.	Nelsen	Stafford
Johnson, Pa.	Nix	Stanton
Karth	Obey	J. William
Kastenmeier	O'Hara	Stanton
Kazan	O'Konski	James V.
Keating	O'Neill	Steed
Keith	Patten	Steelie
Kluczynski	Pelly	Steiger, Wis.
Koch	Pepper	Stokes
Kyl	Perkins	Stratton
Kyros	Pettis	Teague, Calif.
Latta	Peyer	Thompson, Ga.
Leggett	Pickle	Thompson, N.J.
Lent	Pike	Thone
Link	Podell	Tierman
Lloyd	Poff	Udall
Long, Md.	Preyer, N.C.	Ullman
Lujan	Price, Ill.	Van Deerlin
McClory	Pryor, Ark.	Vander Jagt
McCloskey	Pucinski	Vank
McClure	Purcell	Vigorito
McCollister	Quie	Walde
McCormack	Quillen	Ware
McDade	Rallsback	Watts
McDonald,	Rangel	Whalen
Mich.	Rees	White
McFall	Reid, Ill.	Whitehurst
McKevitt	Reid, N.Y.	Wiggins
McKinney	Reuss	Wilson
Macdonald,	Riegle	Charles H.
Mass.	Robison, N.Y.	Wolf
Madden	Rodino	Wright
Mahon	Roe	Wyatt
Mailliard	Rogers	Wyder
Mann	Roncalio	Yates
Mathias, Calif.	Rooney, N.Y.	Yatron
Matsuaga	Rooney, Pa.	Zablocki
Mayne	Rosenthal	Zwach
Mazzoli	Rostenkowski	
Meeds	Roush	

NOES—111

Abbitt	Flynt	Peage
Abernethy	Fountain	Powell
Andrews, Ala.	Griffin	Price, Tex.
Archer	Gross	Randal
Ashbrook	Grover	Rarick
Baker	Hagan	Rhodes
Baring	Hall	Roberts
Belcher	Henderson	Robinson, Va.
Betts	Hogan	Ruth
Bevill	Hosmer	Satterfield
Blackburn	Hull	Scherle
Blanton	Hunt	Schmitz
Brown, Mich.	Hutchinson	Scott
Buchanan	Ichord	Shriver
Burleson, Tex.	Jones	Sikes
Burlison, Mo.	Jones, Ala.	Smith, Calif.
Cabell	Jones, N.C.	Snyder
Caffery	Jones, Tenn.	Spence
Casey, Tex.	Kemp	Steiger, Ariz.
Chappell	King	Stephens
Clancy	Kuykendall	Stubblefield
Clawson, Del.	Landgrebe	Stuckey
Collins, Tex.	Landrum	Taylor
Colmer	Lennon	Thomson, Wis.
Crane	McMillan	Veysey
Daniel, Va.	Martin	Waggoner
Davis, Ga.	Mathis, Ga.	Wampler
Davis, Wls.	Miller, Ohio	Whaley
Dennis	Mills, Md.	Whitten
Devine	Minshall	Williams
Dickinson	Mizell	Wilson, Bob
Dorn	Montgomery	Winn
Dowdy	Myers	Wylie
Downing	Nichols	Wymann
Duncan	Passman	Young, Fla.
Fisher	Patman	Young, Tex.
Flowers	Firnie	Zion

NOT VOTING—33

Addabbo	Byrnes, Wis.	Dulski
Badillo	Connable	Edwards, La.
Bray	Delaney	Eshleman
Burke, Fla.	Diggs	Frelinghuysen

Garmatz	Long, La.	Staggers
Goldwater	McCulloch	Sullivan
Haley	McEwen	Symington
Hathaway	McKay	Talcott
Hebert	Rousselot	Teague, Tex.
Jarman	Scheuer	Terry
Kee	Shoup	Widnall

So the committee amendment was agreed to.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 22, strike out "Sec. 3." and insert in lieu thereof "Sec. 2."

The committee amendment was agreed to.

Mr. WIGGINS. Madam Chairman, I move to strike the last word.

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Madam Chairman, since its enactment by the 81st Congress, title II of the Internal Security Act of 1950 (50 U.S.C. 811-826) has been a topic of public controversy. Its unresolved constitutionality and its unclear terminology have subjected this legislation to misunderstanding and to conflicting interpretation. It is to this controversial legislation that I would like to direct my remarks in order that I might clarify my vote supporting congressional action to secure its repeal.

Title II, known as the Emergency Detention Act, was enacted in the emotion-charged aftermath of the Communist invasion of South Korea. It constituted an expression of a very real concern in this country with a possible Communist-directed conspiracy against the institutions of our Government. In view of these circumstances, the objectives of this legislation were indeed worth while. It sought not only to preserve the internal security of the Nation in the face of a perceived Communist threat, but also to prevent, during a time of high emotion, the arbitrary detention of persons and groups as had occurred during the Second World War with regard to Americans of Japanese ancestry.

In general, title II constituted an attempt by Congress to provide the executive with a procedure for the granting of due process to persons apprehended, during a national emergency, upon suspicion as a possible participant in acts of sabotage and espionage. In addition, it provided legislative authorization for the establishment of facilities for the detention of such suspected saboteurs.

Under the provisions of title II, once the President has declared the existence of an internal security emergency because of an invasion, declaration of war, or insurrection in support of a foreign enemy, the Attorney General is authorized to issue a warrant for the arrest of, in the words of the statute:

Each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in acts of espionage and of sabotage.

A person thus apprehended is brought before a preliminary hearing officer who determines from the evidence presented, whether that person should be detained.

If "reasonable ground" for such detention is determined, a detention order is issued, but may be appealed by the detainee to a Board of Detention Review.

After such administrative procedures, provision is made for a detainee to appeal his case to a U.S. court of appeals and subsequently to the Supreme Court. In all proceedings, however, the Attorney General is authorized to withhold any information, the disclosure of which in his estimation would be detrimental to national security.

The provisions for the administrative internment of suspected saboteurs contained in title II have existed within the body of public law during two of the most troubled decades in our Nation's history. This period has witnessed our involvement in a cold war of unprecedented scale with the Soviet Union, our participation in two armed conflicts in support of our Asian allies, and the straining of our national unity by political and racial unrest and violence. Not once during this period, however, has an American President deemed it necessary to invoke these provisions. This is indeed a tribute to the ability of our governmental system to cope with difficult situations without resorting to the suspension of the political and civil rights of even a minority of its citizens.

Despite this record, however, the continued existence of title II has become an irritation to many Americans. There has developed around this legislation a so-called "concentration camp psychosis;" a fear that the statute might be utilized as a potential instrument for the apprehension and detention of individuals holding opinions unpopular with those in control of the Government. While such viewpoints are unfounded, they cannot be ignored. In recent years our Nation has experienced considerable stress as a result of racial violence and our involvement in the war in Vietnam.

This stress has resulted in the corrosion of the confidence of various segments of our society in the institutions of our Government. The fear generated by rumors of Government plans to utilize title II to "round up" militants and dissidents has served to increase mistrust and inspire disorder. To this extent, title II can be said to contribute to polarization and disorder in that it provides a focal point for those who seek to bring about such a weakening of our society.

The present national climate has heated to the degree where it is not enough for the Department of Justice to simply deny the existence of such plans. Opponents of this legislation, as well as the Department of Justice, have asserted that only the repeal of title II will allay the fears and suspicions, unfounded as they might be, of many of our citizens. This benefit is deemed more important than any potential advantage which title II may provide in times of national emergency. I concur in this opinion.

However, in determining whether or not title II should be repealed, we must address ourselves to more than the emotional considerations which surround it. Such considerations, while important, are insufficient to provide logical ground for

determining the propriety of this legislation. The basic issues upon which such a determination should be made are questions of the legislation's necessity, its constitutional propriety, and the relevancy of its measures to the objectives to be attained. It is upon these questions that title II must ultimately stand or fall.

My opposition to the continued existence of title II, even in amended form, is based in large part upon my belief that at present this legislation is unnecessary. Enacted for use in the eventuality of a Soviet-directed invasion or violent conspiracy during the period of intense United States-Soviet confrontation of the early 1950's, title II appears obsolete in the light of present realities. While the threat of such occurrences may have been very real at that time, the persistence of such a threat is not of the same degree today. The eventuality of an armed invasion of this Nation appears unlikely in the foreseeable future as does the occurrence of a conspiracy in support of a foreign enemy. This is not meant to infer that internal difficulties, often Communist inspired, are not likely to arise at some point in the future. Should they arise, however, I am of the opinion that they will not be of the nature for which the provisions of title II are applicable. It is most likely that internal difficulties will occur not as a direct result of a foreign conspiracy, but because of internal strife, nurtured by economic inequalities and by racial and political dissension. It is to the conditions which foster such strife, rather than to our fear of foreign conspiracy, that we must now direct our attention and our efforts.

Regardless of the nature of a future emergency situation, I believe it will not be met with existing legislation but with new measures tailored to the specific need of new situations. I am confident of the continued flexibility of our political system to cope effectively with any situation as it arises.

I further oppose title II on the grounds that it raises serious constitutional questions. Ostensibly, this legislation appears to violate a number of the most basic safeguards of our Constitution. In particular, I am concerned with the aspect of this legislation which provides for the apprehension and internment of individuals within an administrative framework which parallels our civil court system. Under these provisions an individual suspected of espionage is apprehended on a warrant issued not by a court of law, but by an official of the Department of Justice. The individual thus apprehended is authorized to present a defense to the charge of his potential danger to national security not before a judge or an impartial jury, but before a hearing officer and a review board appointed by the administration. In such proceedings, the Attorney General is authorized to withhold any information or witnesses which he deems detrimental to national security. In short, a procedure is provided in which the Department of Justice occupies the roles of accuser, apprehender, prosecutor, and judge.

The administrative procedure provided in title II appears to violate article III,

section 2 of the Constitution, which asserts that the Judiciary, not the executive branch, shall resolve "all cases" arising under the Constitution and the laws of this Nation. It may also be viewed as an infringement of the due process and trial by jury guarantees of the fifth and sixth amendments to the Constitution. Furthermore, this procedure is contrary to the legal precedent established by the Supreme Court in *Ex parte Milligan*, 4 Wall. 2 (1866), which has never been overruled. In this case, the Supreme Court invalidated the military trial of a civilian, asserting that so long as a civilian court remains open, a civilian may not be tried before any other tribunal. The Court stated further:

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequence, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government.

Assistant Attorney General Yeagley testified last year that the repeal of title II in no way jeopardized our internal security since, in his words:

There is a considerable amount of statutory authority to protect the internal security interests of our nation from sabotage and espionage...

There seems little logic in continuing a law on the statute books when even those for whose use it was intended find no necessity for it.

When the necessity for legislation is nebulous, when its constitutionality is questionable, and when it constitutes a source of irritation and mistrust among the American public, such legislation should be repealed.

For these reasons, I support the repeal of title II of the Internal Security Act of 1950 and urge favorable Congressional action on H.R. 234 as reported by the Committee on the Judiciary.

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

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

Mr. BIESTER. Madam Chairman, I urge the committee to approve and pass H.R. 234 intact and with the Railback amendment. The events of 1942 are a shame to the Nation, but it is not enough merely to characterize them, we must do all we can to prohibit any repetition of them. Reasonable minds can and have differed on how far the Congress can effectively go in prohibiting Executive action to detain American citizens without arrest or trial. It is my conviction that we should go as far as we can to curb such action by Executive fiat.

It has been argued that we need not repeal title II since it is not used. Well, Madam Chairman, the best thing to do with unnecessary laws is to repeal them. But there is an additional reason to repeal. Laws live not only as print in the books of statutes, they also live in the awareness of the public; and they are more than symbols, they are warrants of authority. The American public, the people, are entitled to know that the

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warrants of authority couched in title II no longer threaten the liberty of any citizen. The driving force behind repeal is not, as some have suggested, the Communist Party, rather it is the conscience of the American people which demands repeal.

Madam Chairman, we do not want concentration camps in America, we do not need them, and by H.R. 234, as a Congress, will say that we shall not have them. I urge passage of H.R. 234 without substitutes for the Railsback amendment.

Mr. HANSEN of Idaho. Madam Chairman, I rise in support of the legislation before us to repeal title II of the Internal Security Act of 1950 and prohibit the establishment of emergency detention camps in this country. I am a co-sponsor of a bill similar to H.R. 234, which also provides that no citizen of the United States shall be committed for detention or imprisonment in any facility of the U.S. Government, except pursuant to an act of Congress.

Title II was originally enacted to cope with certain aspects of a threat posed by an alleged Soviet-directed conspiracy against the institutions and laws of the United States. Specifically it was designed to deal with activities of espionage and sabotage which one might anticipate would be undertaken by hard-core revolutionaries during such an emergency. The language of the act stipulates that the President has the power to proclaim an internal security emergency only in certain instances of national peril and that the President or his agent has the power to detain persons believed to be likely to engage in acts of espionage or sabotage. The act also details the procedures for the continued detention of a person arrested under those conditions.

Title II violates basic constitutional principles and American judicial traditions. It authorizes the President under certain circumstances to apprehend and detain persons if there is reasonable ground to believe that they may engage in certain acts contrary to the national interest. Upon a finding of probable cause for detention, the person may be imprisoned. The detention and imprisonment is not authorized on the basis of an overt act committed in violation of law, but on the basis of mere suspicion that he may commit a crime. Thus, the elementary safeguards guaranteed by our Federal and State constitutions and judicial practices to the most hardened criminals and the most dangerous of traitors are denied to the most innocent of our suspected citizens under the Emergency Detention Act.

The fact is that in 20 years no persons have been detained under the provisions of the Emergency Detention Act of 1950. However, there were camp sites designated as available under the act. At the present time the camp sites exist as minimal security prisons or as farms or as privately owned subdivisions.

Disuse of a law essentially is not a major factor for the necessity of the law's repeal. In 1968 feeling ran high and rumors were rampant that the President could, and probably would, deter-

mine that the national peril was great enough that members of radical and militant groups could be detained with no recourse in the courts. The rumors, widely circulated, have been believed in many urban ghettos as well as by those dissidents who are at odds with many of the policies of the United States. The House Un-American Activities Committee, in May 1968, recommended the possible use of these detention camps for certain black nationalists and for Communists. Some elements of our society have deliberately encouraged these rumors and no speeches by lawmakers or officials have been able to dispel the misgivings.

We can look at the record to see that any arrests of members of radical and militant groups have been made on specific criminal charges under the due process of law. This is the only procedure which should be followed and repeal of the Emergency Detention Act of 1950 will insure that due process will always be followed. In addition, it will be a rebuttal to those who found it easy to believe the worst of the "establishment" in this country.

H.R. 234 offers more insurance of due process than the repeal of title II. It provides, under title 18 of the United States Code, positive affirmation of the arrest and detention of persons under the process, with no exception. The purpose of the positive language is to forestall action by the Executive, for the wholesale detention of a group of persons arbitrarily determined to be a danger to the United States. The unfortunate experience of the Japanese Americans in the 1940's provides dramatic and sobering evidence of what can happen in this country when power is misplaced.

The evacuation and incarceration of some 110,000 persons of Japanese ancestry in 1942 is one of the saddest chapters in the history of our Republic. It stands as a permanent blot on the record of a nation whose history and traditions have been dedicated to the cause of bringing to all Americans the blessings of individual liberty and equality of opportunity.

Most of these evacuees were native born American citizens. The rest were aliens who were denied the right to become American citizens by our discriminatory laws. Many were placed in a detention camp located in my own State of Idaho. All suffered great personal hardship at the hands of a country that had no reason whatever to question their loyalty. We must make certain that this tragic mistake is not repeated.

Repeal of the Emergency Detention Act of 1950 and insertion of the positive language assuring coverage by due process will create an atmosphere of trust in this country. I am happy to join with my many colleagues who share my concern, with the Justice Department, with dozens of local government bodies, churches, and other organizations, and editorial voices across the land in urging the prompt passage of this legislation to strike from the statute books a law that is so repugnant to America's principles.

Mr. PODELL. Madam Chairman, the time is long past for Congress to repeal

the archaic Emergency Detention Act that authorizes the Government to establish and maintain concentration camps in America. The Emergency Detention Act was bad law when it was passed in 1950. It is worse law today.

The Emergency Detention Act violates fundamental constitutional guarantees and judicial traditions that we cherish and which are basic to our American way of life. For example, title II authorizes detention not on the basis of an actual act committed in violation of law, but on the basis of mere suspicion—of a mere probability that during proclaimed periods of internal security emergencies, the detainee might engage in, or conspire with others to engage in, acts of espionage or sabotage, acts already prohibited by Federal law. Such probability could presumably be based upon rumor, association, relationship or membership in a group. Moreover, the detainee is not granted a trial by jury, or even before a judge. He is assumed to be guilty. There is no presumption of innocence. He is denied the right of confrontation. The Attorney General, if he deems it in the national interest, need not produce any evidence or witnesses in support of his charges against the detainee.

Former Supreme Court Justice Arthur Goldberg, in commenting on this part of the act, stated:

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

Other provisions of the Emergency Detention Act likewise cast a chilling effect upon the full enjoyment of constitutional rights.

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

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

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

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

The Emergency Detention Act is a vestige of an earlier era in our history that is repugnant to all Americans. Dur-

ing World War II, 109,650 Americans of Japanese ancestry were arrested and their property was confiscated. They were detained in various relocation camps.

In retrospect, they were uprooted from their homes in the Western United States and incarcerated in American concentration camps for no reason other than that they wore Japanese faces.

Even American citizens who had but one-sixteenth Japanese blood were forced into what amounted to concentration camps. In another part of the world, Hitler in Nazi Germany decided that people with one-eighth Jewish blood had to go to concentration camps.

None of the Japanese-American evacuees were charged with any overt crime or act against the United States. The sole justification for their incarceration was that the Japanese American might be disloyal because he was of Japanese ancestry and therefore might have an affinity with the enemy. None were given a trial or a hearing of any kind.

Today, historians, scholars, jurists, lawyers, and plain thinking Americans agree that the evacuation and imprisonment of Japanese Americans in World War II was one of the most shameful chapters in American history.

Eugene Rostow, then dean of the Yale Law School, described the west coast evacuation as "our worst wartime mistake," while President Truman's Civil Rights Commission declared that it was "the most striking mass interference since slavery with the right to physical freedom."

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

As Americans, we have come to equate concentration camps with Nazi Germany, Communist Russia, and other totalitarian forms of government. Indeed, we cannot justify the establishment of concentration camps under our own form of government by merely giving them euphemistic labels such as relocation camps or detention centers. Regardless of the appellation used, they in fact are all concentration camps—places where persons are incarcerated merely on the basis of governmental fiat. A democracy such as ours cannot countenance any law which authorizes the establishment of concentration camps.

I urge all my colleagues to support H.R. 234, which would repeal the Emergency Detention Act, restore confidence in the judicial process and in the American way and remove the last remnant of a shameful blot on the pages of our Nation's history.

Mr. HALL. Madam Chairman, I have listened very diligently to the debate that began yesterday on H.R. 234 and the sub-

stitute, H.R. 820, the former of which would repeal provisions of the Emergency Detention Act of 1950, and the latter of which would amend this same act. It seems that in reviewing history since the days of World War I and the Wilson administration, this country has always possessed some fear of internal subversion and sabotage. I fear many policies are based on such fears. This fear was manifested at the end of World War I by the wholesale rounding up and deportation of many aliens. The fear was likewise manifested in World War II, and I might say quite unjustly by the rounding up and placing in detention camps of American citizens of Japanese ancestry. I might add also that detention of our Japanese citizens was not done under the act being debated today. It was done by such great so-called civil libertarians as Franklin D. Roosevelt and Earl Warren. It was quite ironic that an arch enemy of American liberals, Senator Robert A. Taft, Sr., was one of the few to speak up at the time of detention, vigorously opposing the Government's action. The same applies to FBI director J. Edgar Hoover. However, Madam Chairman, this is in the past, and we must now deal with the factual situation here at hand, and plan adequately for the future as best we can in a bespoiled world.

Without going into the history of the Emergency Detention Act of 1950, I am still convinced that some type of legislation is needed in this area. To repeal and strike from the statutes, as H.R. 234 would do, would lay this country open for even larger types of civil disorders than have been seen in the past. I am firmly convinced that the President needs some type of power and authority to act in this area. I am even willing to say that I am for overprotection in this area since the internal security, the national security, and the very life of the Republic, would essentially be at stake. For this reason, I see no alternative but to support the substitute as offered by the distinguished chairman of the House Internal Security Committee.

Now, Madam Chairman, there has been much talk on this proposed legislation regarding minority groups, discrimination, false imprisonment, and so forth. However, I have yet to see a documented case where any individual or any group was detained or imprisoned under the Emergency Detention Act of 1950. What concerns me more is the fact that thousands upon thousands of mental patients and alleged mental patients are languishing in Federal institutions throughout this country. These questionably designated mental incompetents have absolutely no civil rights and have no redress through any form of due process. I can and have cited specific examples. In the past four Congresses, I have introduced legislation that would protect their constitutional rights. Again in this Congress, I have introduced H.R. 9185, which would help one of the most oppressed and discriminated groups in our society, the mental incompetent. The bill basically would: first, require a preliminary motion for a judicial deter-

mination that the mental competency of the accused to stand trial be supported by a sworn, written statement based on personal observation by a responsible adult as to the mental condition of the accused; second, require a hearing on a preliminary motion at which the accused and his attorney should be present; third, authorize a psychiatric examination or temporary commitment for such an examination only upon an initial determination of the court "that there is reasonable cause to doubt the mental competency of the accused"; fourth, limit the commitment, if commitment is ordered for a "reasonable period not to exceed 30 days as the court may determine"; fifth, require a further hearing on the issue of mental competency to stand trial if the initial report of the physician "indicates a state of mental incompetency"; and sixth, guarantee to an accused found mentally incompetent and committed pursuant to the provisions of the statute, the right to a periodic reexamination, not more frequent than every 6 months, on the application of his attorney, legal guardian, spouse, parent, or nearest adult relative.

My bill is no outlandish demand to protect the individual over the rights of society. They are but reasonable, proper, equitable, and just provisions to protect a neglected segment of our society. We have passed much civil rights legislation in the past 10 years, but here is one area of civil rights that has been neglected. Madam Chairman, at this time, I would like to again ask the distinguished chairman of the House Judiciary Committee to ask for departmental reports and to hold hearings upon my bill, H.R. 9185. If the distinguished chairman is interested in protecting civil liberties, I can think of no better place to begin than the area of protecting the alleged and oftentimes "shanghaied" mental incompetents of this country.

Mr. ROYBAL. Madam Chairman, I rise in support of H.R. 234, which would repeal the Emergency Detention Act of 1950. H.R. 234 would eradicate a dangerous and unconstitutional weapon which Congress gave to the President 21 years ago over his veto.

In a state of panicked concern, Congress enacted this law legalizing the imprisonment of American citizens in detention camps during times of crisis without trial, without due process, in violation of our constitutional freedoms.

Although the Emergency Detention Act has never been invoked, it carries totalitarian and Fascist elements, for it usurps individual liberties arbitrarily. First, it violates first amendment freedoms of speech, press, assembly, and association. It violates the fifth amendment by depriving citizens due process; it authorizes arrest and imprisonment not for a commission of crime but on suspicion that such may occur in the future. By this act, probability and the presumption of guilt are installed as our guiding principles of justice.

It violates the sixth amendment by denying the accused the right to trial by jury, the right to confront his ac-

cusers, the right to cross-examine the witnesses against him.

It violates the eighth amendment by imposing cruel and unusual imprisonment by permitting indefinite detention without any proof that a crime has been committed.

It violates our basic overriding principle which we have affirmed throughout our history, that the accused is assumed innocent until proven guilty. Imprisonment is based on governmental belief, not proof; the Government determines the fact and rationale, not the courts. The Government need not prove that the accused committed or attempted to commit sabotage or overthrow the Government. In effect, an administrative tribunal replaces our constitutional guarantee of trial by jury.

The whole matrix of procedural due process is twisted by this act; the preliminary hearing officer deciding the validity of an arrest is appointed by the prosecutor; the detention review board hearing appeals has no time restrictions in arriving at a decision; the accused must wait for that decision before appealing to an appellate court; the appellate court replaces his right to a trial by jury and to a complete examination of the facts.

This star chamber approach with its secret faceless informers and its lack of guarantees for cross-examination is repugnant to our constitutional tradition. It replaces hysteria and panic for our basic freedoms. I do not believe that we preserve our national security or serve national interest by maintaining such laws à la the Alien Sedition Act of 1798 or the Executive order of February 29, 1942, establishing relocation camps against 110,000 Japanese Americans.

The memory of that experience is still fresh among Japanese Americans who have led the fight today to repeal this latter day detention law. There is deep concern among minority groups in this country that during a time of continued strife they would be the first ones imprisoned in these camps. It may appear unreal, improbable to some of us today, but we cannot ignore the past experience of the Japanese Americans. Who can say that at another point in history we may turn unreflectingly to this abhorrent act as a ready made tool of oppression.

The Justice Department has already testified that this act is unnecessary, that repeal "will not lessen the inherent authority of the President under the war powers," that "considerable amount of statutory authority" already exists "to protect the internal security interests of our country from sabotage and espionage or other similar attack."

The act is clearly not in the interest of law and order. It can only serve as an undemocratic stigma of our past. It is therefore our congressional responsibility to vote for H.R. 234 to repeal this constitutionally dangerous and unnecessary law.

Mr. ANNUNZIO. Madam Chairman, as a cosponsor of H.R. 234, I urge Members to support this bill which would repeal the Emergency Detention Act of 1950 and which would prohibit detention of

persons by Executive order in a time of national emergency.

The briefest summary of the Emergency Detention Act suffices to indicate the unjust and unconstitutional character of its provisions.

Under the act, the President may proclaim an "Internal Security Emergency" if the country is invaded, or if Congress declares war, or if there occurs an internal insurrection in aid of a foreign enemy. With issuance of such a proclamation, the Attorney General has power to apprehend and by order detain each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or of sabotage. The disposition of any one so arrested is then in the hands of a hearing officer. The hearing officer is not a judge; he is an officer of the executive branch. There is no judge and there is no jury. It is up to the hearing officer alone to decide whether the detainee shall be released or whether he shall be incarcerated for the duration of the emergency. It is true that the act grants to the detainee the right to counsel and the right to cross-examine the witnesses, but at the same time the Act authorizes the Attorney General to withhold evidence or witnesses if their disclosure would endanger national security. The detainee is likely to be deprived of the means of defending himself—the means which we call due process of law. And the detainee may not even appeal the decision of the hearing officer to a Federal court—his appeal is to an administrative tribunal called the Detention Review Board. Only after the Board has made a decision about him may he appeal his case to a U.S. Court of Appeals. And even in proceedings before the Board and before a court of appeals the Attorney General may withhold evidence or witnesses—that is, he can deprive the detainee of any real opportunity to appeal at all.

But the power which this act gives to the executive branch to deprive a detainee of the safeguards of due process is less appalling than the power it gives to incarcerate an individual who has not committed any criminal act whatever. The executive branch may put a man away in a concentration camp for an indefinite period of time merely on suspicion that he might commit espionage or sabotage at some time in the future. This would be nothing else than a system of political terror.

And it is not likely, therefore, that an individual's arrest and incarceration will be based—not on commission of any criminal act—but on his political beliefs and associations?

Madam Chairman, I urge Members to consider how the system of political terror designed in this act may inhibit the exercise of first-amendment rights. A person may think twice before joining a politically radical group if he believes that he might thereby render himself suspect in the eyes of the Justice Department and that he may in consequence be arrested some day even though he has done nothing illegal. The

Emergency Detention Act does not take effect only in a time of emergency; it may be having an effect right now in restraining personal liberty.

Not only has it the effect of restraining personal liberty guaranteed by the first amendment, but it has also the effect of arousing apprehension among groups in this country—especially racial and new left groups. Such apprehension is not conducive to overcoming political divisions among the American people.

Madam Chairman, the Internal Security Committee proposes in its bill—H.R. 820—that we retain the Emergency Detention Act with certain amendments. Let me say that these amendments would do little to mitigate the threat to liberty posed by the act. But I should like to address myself to one point which the Internal Security Committee makes. It says that if we merely repeal the act we will remove all direction and limitation imposed by Congress on the President, so that in a national emergency the President could detain individuals or whole groups of people by executive order under his war powers, as he did in relocating Japanese Americans in World War II.

In order to meet this possibility, H.R. 234 prohibits any such executive action; it provides in section 1 that:

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

Madam Chairman, I urge Members to reaffirm their commitment to civil liberties by passing H.R. 234.

Mr. ANDERSON of California. Madam Chairman, I rise in strong support of H.R. 234, a bill to prohibit the establishment of emergency detention camps in the United States.

Since entering Congress, I have joined with my good friends and colleagues, Mr. MATSUNAGA and Mr. HOLIFIELD, in efforts to repeal the obnoxious Emergency Detention Act.

The Emergency Detention Act, enacted in 1950 over President Truman's veto, would allow the Government "to imprison each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or of sabotage."

The authority granted in this act violates the human and civil rights which are guaranteed under the Constitution. The act would allow the incarceration of an individual on the basis of suspicion that an offense may occur in the future. It would allow the imprisonment of innocent individuals without due process similar to that blot on our history which occurred during World War II to Americans of Japanese ancestry.

During the hysteria of World War II, the Government uprooted some 110,000 Japanese Americans from their homes, deprived them of due process of law, and incarcerated them in detention camps for the duration of the war. Two-thirds of those evacuated in 1942 were native-born American citizens, while the other one-third were aliens who were denied American citizenship by the laws of their adopted country. At the time, no crimi-

nal or civil charges of any kind were brought against any individual evacuee, or against the evacuees as a group.

President Truman's Civil Rights Commission declared that this incarceration was "the most striking mass interference since slavery with the right to physical freedom."

The victims of the World War II incarceration—the Japanese Americans have been the vanguard in efforts to insure that innocent persons are never subjected to that treatment again. It is little wonder that the Japanese-American Citizens League, especially their Washington representative, Mike Masakawa, and, most recently, his able assistant, Dave Ushio, has effectively supplemented the efforts of Congressman MATSUNAGA to repeal the Emergency Detention Act.

The fight to repeal the Emergency Detention Act is not a recent phenomena. In 1950, Senator McCarran, then chairman of the Senate Judiciary Committee, opposed the act as "a concentration camp measure, pure and simple." President Truman, in his veto message, stated that—

They would very probably prove ineffective to achieve the objective sought . . . it may well be that persons other than those covered by those provisions would be more important to detain in the event of emergency.

Unfortunately, President Truman's veto was overridden.

Today, support for the repeal of the Emergency Detention Act comes from many quarters. The Assistant Attorney General testified that:

Repeal of this legislation will allay the fears and suspicions . . . of many of our citizens. This benefit outweighs any potential advantage which the Act may provide in a time of internal security emergency.

The Los Angeles County Board of Supervisors supports this bill before us today in order to avoid any "repetition of the infamous treatment accorded loyal Japanese Americans who were uprooted from their homes and moved into concentration camps during the hysteria of World War II."

Gardena, Calif., a beautiful community located in my district, has many residents who were deprived of their freedom during World War II. The City Council of Gardena has adopted resolutions in support of the abolition of the Emergency Detention Act. The city council states that:

The Act is an unnecessary statute of the United States which could possibly be used to unjustly deny a person his Constitutional Right.

In addition, I have received resolutions adopted by the city councils of Carson, Compton, Hawthorne, Redondo Beach, and Torrance, Calif., seeking the repeal of the Emergency Detention Act.

Madam Chairman, if a person is to be imprisoned, let us follow established judicial procedures, let us require that charges are prepared, let us insure a fair and impartial trial, let us uphold the very Constitution that thousands upon thousands of Americans have valiantly fought and died to protect.

Let us pass H.R. 234 and thereby repeal the Emergency Detention Act.

Mr. HECHLER of West Virginia. Madam Chairman, I strongly support and am proud to vote for this legislation. It was my honor to have the opportunity to work as a special assistant to President Harry S. Truman, on his personal staff at the White House, at the time he penned his classic veto message on the Internal Security Act of 1950. Madam Chairman, in those days when McCarthyism was running rampant through the Nation, and legislators were turning tail on the issue of witch hunts against subversives, there were some legislators of high courage in this body who stood up to be counted on the side of the U.S. Constitution when this iniquitous bill was before this body, and again in sustaining President Truman's veto.

The veto message which President Truman sent to the Congress, 21 years ago next week, reads even better in 1971 when we consider the conditions of the times. It took that rare brand of courage which President Truman possessed to express so eloquently and cogently his support of the Constitution of the United States, as he stood up to defend the civil liberties protected by that historic document.

The text of President Truman's veto message of September 22, 1950, follows:

To the House of Representatives:

I return herewith, without my approval. H.R. 9490, the proposed "Internal Security Act of 1950."

I am taking this action only after the most serious study and reflection and after consultation with the security and intelligence agencies of the Government. The Department of Justice, the Department of Defense, the Central Intelligence Agency, and the Department of State have all advised me that the bill would seriously damage the security and intelligence operations for which they are responsible. They have strongly expressed the hope that the bill would not become law.

This is an omnibus bill containing many different legislative proposals with only one thing in common: they are all represented to be "anticommunist." But when the many complicated pieces of the bill are analyzed in detail, a startling result appears.

H.R. 9490 would not hurt the Communists. Instead, it would help them.

It has been claimed over and over again that this is an "anticommunist" bill—a "Communist control" bill. But in actual operation the bill would have results exactly the opposite of those intended.

It would actually weaken our existing internal security measures and would seriously hamper the Federal Bureau of Investigation and our other security agencies.

It would help the Communists in their efforts to create dissension and confusion within our borders.

It would help the Communist propagandists throughout the world who are trying to undermine freedom by discrediting as hypocrisy the efforts of the United States on behalf of freedom.

Specifically, some of the principal objections to the bill are as follows:

1. It would aid potential enemies by requiring the publication of a complete list of vital defense plants, laboratories, and other installations.

2. It would require the Department of Justice and its Federal Bureau of Investigation to waste immense amounts of time and

energy attempting to carry out its unworkable registration provisions.

3. It would deprive us of the great assistance of many aliens in intelligence matters.

4. It would antagonize friendly governments.

5. It would put the Government of the United States in the thought-control business.

6. It would make it easier for subversive aliens to become naturalized as United States citizens.

7. It would give Government officials vast powers to harass all of our citizens in the exercise of their right of free speech.

Legislation with these consequences is not necessary to meet the real dangers which communism presents to our free society. Those dangers are serious and must be met. But this bill would hinder us, not help us, in meeting them. Fortunately, we already have on the books strong laws which give us most of the protection we need from the real dangers of treason, espionage, sabotage, and actions looking to the overthrow of our Government by force and violence. Most of the provisions of this bill have no relation to these real dangers.

One provision alone of this bill is enough to demonstrate how far it misses the real target. Section 5 would require the Secretary of Defense to "proclaim" and "have published in the Federal Register" a public catalogue of defense plants, laboratories, and all other facilities vital to our national defense—no matter how secret. I cannot imagine any document a hostile foreign government would desire more. Spies and saboteurs would willingly spend years of effort seeking to find out the information that this bill would require the Government to hand them on a silver platter. There are many provisions of this bill which impel me to return it without my approval, but this one would be enough by itself. It is inconceivable to me that a majority of the Congress could expect the Commander in Chief of the Armed Forces of the United States to approve such a flagrant violation of proper security safeguards.

This is only one example of many provisions in the bill which would in actual practice work to the detriment of our national security.

I know that the Congress had no intention of achieving such results when it passed this bill. I know that the vast majority of the Members of Congress who voted for the bill sincerely intended to strike a blow at the Communists.

It is true that certain provisions of this bill would improve the laws protecting us against espionage and sabotage. But these provisions are greatly outweighed by others which would actually impair our security.

I repeat, the net results of this bill would be to help the Communists, not to hurt them.

I therefore most earnestly request the Congress to reconsider its action. I am confident that on more careful analysis most Members of Congress will recognize that this bill is contrary to the best interests of our country at this critical time.

H.R. 9490 is made up of a number of different parts. In summary, their purposes and probable effects may be described as follows:

Sections 1 through 17 are designed for two purposes. First, they are intended to force Communist organizations to register and to divulge certain information about themselves—information on their officers, their finances, and, in some cases, their membership. These provisions would in practice be ineffective, and would result in obtaining no information about Communists that the FBI and our other security agencies do not already have. But in trying to enforce these

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sections, we would have to spend a great deal of time, effort, and money—all to no good purpose.

Second, these provisions are intended to impose various penalties on Communists and others covered by the terms of the bill. So far as Communists are concerned, all these penalties which can be practicably enforced are already in effect under existing laws and procedures. But the language of the bill is so broad and vague that it might well result in penalizing the legitimate activities of people who are not Communists at all, but loyal citizens.

Thus the net result of these sections of the bill would be: no serious damage to the Communists, much damage to the rest of us. Only the Communist movement would gain from such an outcome.

Sections 18 through 21 and section 23 of this bill constitute, in large measure, the improvements in our internal security laws which I recommended some time ago. Although the language of these sections is in some respects weaker than is desirable, I should be glad to approve these provisions if they were enacted separately, since they are improvements developed by the FBI and other Government security agencies to meet certain clear deficiencies of the present law. But even though these improvements are needed, other provisions of the bill would weaken our security far more than these would strengthen it. We have better protection for our internal security under existing law than we would have with the amendments and additions made by H.R. 9490.

Sections 22 and 25 of this bill would make sweeping changes in our laws governing the admission of aliens to the United States and their naturalization as citizens.

The ostensible purpose of these provisions is to prevent persons who would be dangerous to our national security from entering the country or becoming citizens. In fact, present law already achieves that objective.

What these provisions would actually do is to prevent us from admitting to our country, or to citizenship, many people who could make real contributions to our national strength. The bill would deprive our Government and our intelligence agencies of the valuable services of aliens in security operations. It would require us to exclude and to deport the citizens of some friendly non-Communist countries. Furthermore, it would actually make it easier for subversive aliens to become United States citizens. Only the Communist movement would gain from such actions.

Section 24 and sections 26 through 30 of this bill make a number of minor changes in the naturalization laws. None of them is of great significance—nor are they particularly relevant to the problem of internal security. These provisions, for the most part, have received little or no attention in the legislative process. I believe that several of them would not be approved by the Congress if they were considered on their merits, rather than as parts of an omnibus bill.

Section 31 of this bill makes it a crime to attempt to influence a judge or jury by public demonstration, such as picketing. While the courts already have considerable power to punish such actions under existing law, I have no objection to this section.

Sections 100 through 117 of this bill (title II) are intended to give the Government power, in the event of invasion, war, or insurrection in the United States in aid of a foreign enemy, to seize and hold persons who could be expected to attempt acts of espionage or sabotage, even though they had as yet committed no crime. It may be that legislation of this type should be on the statute books. But the provisions in H.R. 9490 would very probably prove ineffective to achieve the objective sought, since they would not suspend the writ of habeas corpus, and under

our legal system to detain a man not charged with a crime would raise serious constitutional questions unless the writ of habeas corpus were suspended. Furthermore, it may well be that other persons than those covered by these provisions would be more important to detain in the event of emergency. This whole problem, therefore, should clearly be studied more thoroughly before further legislative action along these lines is considered.

In brief, when all the provisions of H.R. 9490 are considered together, it is evident that the great bulk of them are not directed toward the real and present dangers that exist from communism. Instead of striking blows at communism, they would strike blows at our own liberties and at our position in the forefront of those working for freedom in the world. At a time when our young men are fighting for freedom in Korea, it would be tragic to advance the objectives of communism in this country, as this bill would do.

Because I feel so strongly that this legislation would be a terrible mistake, I want to discuss more fully its worst features—sections 1 through 17, and sections 23 and 25.

Most of the first 17 sections of H.R. 9490 are concerned with requiring registration and annual reports, by which the bill calls Communist-action organizations and Communist-front organizations, of names of officers, sources and uses of funds, and, in the case of Communist-action organizations, names of members.

The idea of requiring Communist organizations to divulge information about themselves as a simple and attractive one. But it is about as practical as requiring thieves to register with the sheriff. Obviously, no such organization as the Communist Party is likely to register voluntarily.

Under the provisions of the bill, if an organization which the Attorney General believes should register does not do so, he must request a five-man Subversive Activities Control Board to order the organization to register. The Attorney General would have to produce proof that the organization in question was in fact a Communist-action or a Communist-front organization. To do this he would have to offer evidence relating to every aspect of the organization's activities. The organization could present opposing evidence. Prolonged hearings would be required to allow both sides to present proof and to cross-examine opposing witnesses.

To estimate the duration of such a proceeding involving the Communist Party, we need only recall that on much narrower issues the trial of the 11 Communist leaders under the Smith Act consumed 9 months. In a hearing under this bill, the difficulties of proof would be much greater and would take a much longer time.

The bill lists a number of criteria for the Board to consider in deciding whether or not an organization is a Communist-action or Communist-front organization. Many of these deal with the attitudes or states of mind of the organization's leaders. It is frequently difficult in legal proceedings to establish whether or not a man has committed an overt act, such as theft or perjury. But under this bill, the Attorney General would have to attempt the immensely more difficult task of producing concrete legal evidence that men have particular ideas or opinions. This would inevitably require the disclosure of many of the FBI's confidential sources of information and thus would damage our national security.

If, eventually, the Attorney General should overcome these difficulties and get a favorable decision from the Board, the Board's decision could be appealed to the courts. The courts would review any questions of law involved, and whether the Board's findings of fact were supported by the preponderance of the evidence.

All these proceedings would require great effort and much time. It is almost certain that from 2 to 4 years would elapse between the Attorney General's decision to go before the Board with a case, and the final disposition of the matter by the courts.

And when all this time and effort had been spent, it is still most likely that no organization would actually register.

The simple fact is that when the courts at long last found that a particular organization was recruited to register, all the leaders of the organization would have to do to frustrate the law would be to dissolve the organization and establish a new one with a different name and a new roster of nominal officers. The Communist Party has done this again and again in countries throughout the world. And nothing could be done about it except to begin all over again the long dreary process of investigative, administrative, and judicial proceedings to require registration.

Thus the net result of the registration provision of this bill would probably be an endless chasing of one organization after another with the Communists always able to frustrate the law enforcement agencies and prevent any final result from being achieved. It could only result in wasting the energies of the Department of Justice and in destroying the sources of information of its FBI. To impose these fruitless burdens upon the FBI would divert it from its vital security duties and thus give aid and comfort to the very Communists whom the bill is supposed to control.

Unfortunately, these provisions are not merely ineffective and unworkable. They represent a clear and present danger to our institutions.

Insofar as the bill would require registration by the Communist Party itself, it does not endanger our traditional liberties. However, the application of the registration requirements to so-called Communist-front organizations can be the greatest danger to freedom of speech, press, and assembly, since the Alien and Sedition Laws of 1798. This danger arises out of the criteria or standards to be applied in determining whether an organization is a Communist-front organization.

There would be no serious problem if the bill required proof that an organization was controlled and financed by the Communist Party before it could be classified as a Communist-front organization. However, recognizing the difficulty of proving those matters, the bill would permit such a determination to be based solely upon the extent to which the positions taken or advanced by it from time to time on matters of policy do not deviate from those of the Communist movement.

This provision could easily be used to classify as a Communist-front organization any organization which is advocating a single policy or objective which is also being urged by the Communist Party or by a Communist foreign government. In fact, this may be the intended result, since the bill defines "organization" to include "a group of persons permanently or temporarily associated together for joint action on any subject or subjects." Thus, an organization which advocates low-cost housing for sincere humanitarian reasons might be classified as a Communist-front organization because the Communists regularly exploit gull conditions as one of their fifth-column techniques.

It is not enough to say that this probably would not be done. The mere fact that it could be done shows clearly how the bill would open a Pandora's box of opportunities for official condemnation of organizations and individuals for perfectly honest opinions which happen to be stated also by Communists.

The basic error of these sections is that they move in the direction of suppressing opinion and belief; this would be a very dan-

gerous course to take, not because we have any sympathy for Communist opinion, but because any government stifling the free expression of opinion is a long step toward totalitarianism.

There is no more fundamental axiom of American freedom than the familiar statement: In a free country, we punish men for crimes they commit, but never for the opinions they have. And the reason this is so fundamental to freedom is not, as many suppose, that it protects the few unorthodox from suppression by the majority; to permit freedom of expression is primarily for the benefit of the majority because it protects criticism, and criticism leads to progress.

We can and we will prevent espionage, sabotage or other actions endangering our national security. But we would betray our finest traditions if we attempted, as this bill would attempt, to curb the simple expression of opinion. This we should never do, no matter how distasteful the opinion may be to the vast majority of our people. The course proposed by this bill would delight the Communists for it would make a mockery of the Bill of Rights, of our claims to stand for freedom in the world.

And what kind of effect would these provisions have on the normal expression of political views? Obviously, if this law were on the statute books, the part of prudence would be to avoid saying anything that might be construed by someone as not deviating sufficiently from the current Communist propaganda line. And since no one could be sure in advance what views were safe to express, the inevitable tendency would be to express no views on controversial subjects.

The result could only be to reduce the vigor and strength of our political life—an outcome that the Communists would happily welcome, but that free men should abhor.

We need not fear the expression of ideas—we do need to fear their suppression.

Our position in the vanguard of freedom rests largely on our demonstration that the free expression of opinion, coupled with government by popular consent, leads to national strength and human advancement. Let us not, in cowering and foolish fear, throw away the ideals which are the fundamental basis of our free society.

Not only are the registration provisions of this bill unworkable and dangerous, they are also grossly misleading in that all but one of the objectives which are claimed for them are already being accomplished by other and superior methods—and the one objective which is not now being accomplished would not in fact be accomplished under this bill either.

It is claimed that the bill would provide information about the Communist Party and its members. The fact is, the FBI already possesses very complete sources of information concerning the Communist movement in this country. If the FBI must disclose its sources of information in public hearings to require registration under this bill, its present sources of information, and its ability to acquire new information, will be largely destroyed.

It is claimed that this bill would deny income-tax exemption to Communist organizations. The fact is that the Bureau of Internal Revenue already denies income-tax exemption to such organizations.

It is claimed that this bill would deny passports to Communists. The fact is that the Government can and does deny passports to Communists under existing law.

It is claimed that this bill would prohibit the employment of Communists by the Federal Government. The fact is that the employment of Communists by the Federal Government is already prohibited and, at least in the executive branch, there is an effective program to see that they are not employed.

It is claimed that this bill would prohibit

the employment of Communists in defense plants. The fact is that it would be years before this bill would have any effect of this nature—if it ever would. Fortunately, this objective is already being substantially achieved under the present procedures of the Department of Defense, and if the Congress would enact one of the provisions I have recommended—which it did not include in this bill—the situation would be entirely taken care of, promptly and effectively.

It is also claimed—and this is the one new objective of the registration provisions of this bill—that it would require Communist organizations to label all their publications and radio and television broadcasts as emanating from a Communist source. The fact is that this requirement, even if constitutional, could be easily and permanently evaded, simply by the continuous creation of new organizations to distribute Communist information.

Section 4(a) of the bill, like its registration provisions, would be ineffective, would be subject to dangerous abuse, and would seek to accomplish an objective which is already better accomplished under existing law.

This provision would make unlawful any agreement to perform any act which would substantially contribute to the establishment within the United States of a foreign-controlled dictatorship. Of course, this provision would be unconstitutional if it infringed upon the fundamental right of the American people to establish for themselves by constitutional methods any form of government they choose. To avoid this, it is provided that this section shall not apply to the proposal of a constitutional amendment. If this language limits the prohibition of the section to the use of unlawful methods, then it adds nothing to the Smith Act, under which 11 Communist leaders have been convicted, and would be more difficult to enforce. Thus, it would accomplish nothing. Moreover, the bill does not even purport to define the phrase, unique in a criminal statute, "substantially contribute." A phrase so vague raises a serious constitutional question.

Sections 22 and 25 of this bill are directed toward the specific questions of who should be admitted to our country, and who should be permitted to become a United States citizen. I believe there is general agreement that the answers to those questions should be: We should admit to our country, within the available quotas, anyone with a legitimate purpose who would not endanger our security, and we should admit to citizenship any immigrant who will be a loyal and constructive member of the community. Those are essentially the standards set by existing law. Under present law, we do not admit to our country known Communists, because we believe they work to overthrow our Government, and we do not admit Communists to citizenship, because we believe they are not loyal to the United States.

The changes which would be made in the present law by sections 22 and 25 would not reinforce those sensible standards. Instead, they would add a number of new standards, which, for no good and sufficient reason, would interfere with our relations with other countries and seriously damage our national security.

Section 22 would, for example, exclude from our country anyone who advocates any form of totalitarian or one-party government. We, of course, believe in the democratic system of competing political parties, offering a choice of candidates and policies. But a number of countries with which we maintain friendly relations have a different form of government.

Until now, no one has suggested that we should abandon cultural and commercial relations with a country merely because it

has a form of government different from ours. Yet section 22 would require that. As one instance, it is clear that under the definitions of the bill the present Government of Spain, among others, would be classified as "totalitarian." As a result, the Attorney General would be required to exclude from the United States all Spanish businessmen, students, and other nonofficial travelers who support the present Government of their country. I cannot understand how the sponsor of this bill can think that such an action would contribute to our national security.

Moreover, the provisions of section 22 of this bill would strike a serious blow to our national security by taking away from the Government the power to grant asylum in this country to foreign diplomats who repudiate Communist imperialism and wish to escape its reprisals. It must be obvious to anyone that it is in our national interest to persuade people to renounce communism, and to encourage their defection from Communist forces. Many of these people are extremely valuable to our intelligence operations. Yet under this bill the Government would lose the limited authority it now has to offer asylum in our country as the great incentive for such defection.

In addition, the provisions of section 22 would sharply limit the authority of the Government to admit foreign diplomatic representatives and their families on official business. Under existing law, we already have the authority to send out of the country any person who abuses diplomatic privileges by working against the interests of the United States. But under this bill a whole series of unnecessary restrictions would be placed on the admission of diplomatic personnel. This is not only ungenerous, for a country which eagerly sought and proudly holds the honor of being the seat of the United Nations, it is also very unwise, because it makes our country appear to be fearful of foreigners, when in fact we are working as hard as we know how to build mutual confidence and friendly relations among the nations of the world.

Section 22 is so contrary to our national interests that it would actually put the Government into the business of thought control by requiring the deportation of any alien who distributes or publishes, or who is affiliated with an organization which distributes or publishes, any written or printed matter advocating (or merely expressing belief in) the economic and governmental doctrines of any form of totalitarianism.

This provision does not require an evil intent or purpose on the part of the alien, as does a similar provision in the Smith Act. Thus, the Attorney General would be required to deport any alien operating or connected with a well-stocked bookshop containing books on economics or politics written by supporters of the present government of Spain, of Yugoslavia or any one of a number of other countries. Section 25 would make the same aliens ineligible for citizenship. There should be no room in our laws for such hysterical provisions. The next logical step would be to "burn the books."

This illustrates the fundamental error of these immigration and naturalization provisions. It is easy to see that they are hasty and ill-considered. But far more significant—and far more dangerous—is their apparent underlying purpose. Instead of trying to encourage the free movement of people, subject only to the real requirements of national security, these provisions attempt to bar movement to anyone who is, or once was, associated with ideas we dislike, and in the process, they would succeed in barring many people whom it would be to our advantage to admit.

Such an action would be a serious blow to our work for world peace. We uphold—

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or have upheld till now at any rate—the concept of freedom on an international scale. That is the root concept of our efforts to bring unity among the free nations and peace in the world.

The Communists, on the other hand, attempt to break down in every possible way the free interchange of persons and ideas. It will be to their advantage, and not ours, if we establish for ourselves an "iron curtain" against those who can help us in the fight for freedom.

Another provision of the bill which would greatly weaken our national security is section 25 which would make subversive aliens eligible for naturalization as soon as they withdraw from organizations required to register under this bill, whereas under existing law they must wait for a period of 10 years after such withdrawal before becoming eligible for citizenship. This proposal is clearly contrary to the national interest, and clearly gives to the Communists an advantage they do not have under existing law.

I have discussed the provisions of this bill at some length in order to explain why I am convinced that it would be harmful to our security and damaging to the individual rights of our people if it were enacted.

Earlier this month, we launched a great Crusade for Freedom designed, in the words of General Eisenhower, to fight the big lie with the big truth. I can think of no better way to make a mockery of that crusade and of the deep American belief in human freedom and dignity which underlie it than to put the provisions of H.R. 9490 on our statute books.

I do not undertake lightly the responsibility of differing with the majority in both Houses of Congress who have voted for this bill. We are all Americans; we all wish to safeguard and preserve our constitutional liberties against internal and external enemies. But I cannot approve this legislation, which instead of accomplishing its avowed purpose would actually interfere with our liberties and help the Communists against whom the bill was aimed.

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

There is no reason why we should fail. Our country has been through dangerous times before, without losing our liberties to external attack or internal hysteria. Each of us, in Government and out, has a share in guarding our liberties. Each of us must search his own conscience to find whether he is doing all that can be done to preserve and strengthen them.

No considerations of expediency can justify the enactment of such a bill as this, a bill which would so greatly weaken our liberties and give aid and comfort to those who would destroy us. I have, therefore, no alternative but to return this bill without my approval, and I earnestly request the Congress to reconsider its action.

HARRY S. TRUMAN.
THE WHITE HOUSE, September 22, 1950.

Mr. DRINAN. Madam Chairman, I rise in support of H.R. 234, to amend title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be detained or imprisoned in any facility of the U.S. Government except in conformity with the provisions of title 18.

H.R. 234 repeals the Emergency Detention Act—title II of the Internal Security Act of 1950—which authorizes

the establishment of detention camps. Madam Chairman, I have the honor to be a member of both the Committee on the Judiciary, which unanimously reported out H.R. 234, and the Committee on Internal Security, which, over my dissent and the dissent of others—indeed by a two-vote majority of 5 to 3—reported out H.R. 820, which would amend but not repeal the Emergency Detention Act.

I fully participated in the consideration of both measures by these committees. I disagree with the conclusion reached by five of my colleagues on the Internal Security Committee, but that disagreement certainly does not arise out of any disrespect for the integrity of those gentlemen. Rather it arises—if I may attempt to synthesize the hundreds of thousands of words uttered in both committees—out of the fundamental conviction that our society does not need and cannot tolerate the placement of its citizens in detention camps without trial, without proof of guilt, without presumption of innocence, without procedural due process, without any of the badges of liberty which our Constitution compels. No verbal disclaimer of discrimination can sanitize such a process; no statements of goodwill made in the course of our debate can legitimize the imprisonment of American citizens on the basis of a conclusive presumption of guilty.

If somehow there should occur the national emergency which the Detention Act contemplates as a precondition for internment, procedural remedies under the Emergency Detention Act could not protect us. If such an emergency should ever occur, surely our country would be in no conceivable temper or condition to tolerate either judicial appeal from abuses under the act, or the prudent balancing of procedural rights. If, then, some such type of preventive detention is ever again thought necessary by American citizens, we shall either manage that crisis with the established judicial apparatus, or we shall not be able to cope with it at all by means of barbed wire.

I shall not here trace the unhappy history of the Emergency Detention Act or describe the provisions of the bills which are today before this House. That analysis was eloquently made yesterday.

Nor shall I here measure the merits of this controversy on the basis of the very large number of our colleagues who have supported repeal of the act, or the numbers of citizens, groups, and newspapers which have so vigorously fought for its repeal. The opposition of the President and the Department of Justice, the original veto of the Emergency Detention Act by President Truman, the opposition by the former and present Speakers of the House—Speaker McCormack and Speaker ALBERT—the outcry by the people—these are well known to all of us.

I would make only this closing comment in urging my colleagues to vote for H.R. 234: By passing this bill, the Congress will proclaim to the American people that notwithstanding the tragedies of misjudgment and death into

which our Government has led our people overseas, and notwithstanding the enormous clamor at home for order over justice, and notwithstanding the fear which all men have of future and unknown events—notwithstanding all these pressures of life in the United States in 1971, the U.S. Congress again directed that citizens are presumed to be innocent of crime. The entire structure of our society is based on that presumption.

Mr. GUDE. Madam Chairman, today, we have before us legislation designed to repeal title II of the 1950 Internal Security Act, known as the Emergency Detention Act. As an American citizen proud of his Nation's heritage of equal justice and due process of law for all citizens, I cannot help but wish that the Emergency Detention Act had never been a part of the law of the land. As a Member of this body of Congress and cosponsor of H.R. 234, I cannot urge my colleagues strongly enough to support this repealer of title II of the Internal Security Act.

That U.S. citizens could, under present laws, be placed into prison camps in the United States, without having been tried or convicted of committing a crime is a concept totally alien to the American philosophy of justice. All historians, jurists, and right thinking Americans agree that the imprisonment of 110,000 Japanese Americans during World War II, while at the same time, other Japanese-Americans were fighting and dying in the American uniform to protect and preserve the principles of freedom and justice, is indeed a black page in our history.

Under title II of the Internal Security Act of 1950, detention of a person is authorized not on the basis of an overt act committed in violation of the law, but on the basis of suspicion that the person may commit a crime. Those safeguards guaranteed by our Constitution to all criminals are, under present law, denied to the most innocent citizens.

The possibility that prison camps could once again be established in this great Nation is indeed frightening. H.R. 234 would fully remove from our laws those sections which stand today as both a terrible reminder of the Japanese situation which stains the pages of our history and as a potential threat to the rights and security of all Americans. H.R. 820, which is offered as a substitute measure, would not only retain title II but would in fact expand its definitions to include purely domestic groups. Hardly designed to allay anyone's fears, this measure, if adopted, would only compound the problems of the existing law.

Madam Chairman, the strength of our system of government is measured by our ability to operate within the limits of the Constitution, even in times of stress. The Emergency Detention Act stands as a monument to our inability to do so. I believe that this act should have long ago been repealed. I urge my colleagues to vote to totally repeal this act and vote for H.R. 234. No half-way measures will be acceptable.

Mr. COUGHLIN. Madam Chairman, I rise in support of the bill as reported from the Committee on the Judiciary.

The issue we face is clear and simple. Nothing in the bill—including the Railside amendment—limits the power of the President in a martial law situation where the courts are unable to function. Indeed, it would be beyond the power of the Congress to so restrict the presidential authority.

But to authorize detention camps and deprivation of due process at a time when the courts are able to function—which is what the amendment proposes by implication—is contrary to the basic system of American jurisprudence, let alone the spirit of freedom and liberty upon which our Republic is founded.

This certainly cannot—and must not—be the intent of Congress.

Let me say it another way.

In the case of invasion or insurrection, the President has the power to proclaim martial law and take extraordinary measures to maintain order. There is no argument, to my knowledge, that the President should not possess such power.

The bill simply says that in the absence of a martial law situation and when the courts are functioning, then we should use the judicial process. I cannot see how anyone can quarrel with this principle.

I recognize the concerns of the distinguished gentleman from Missouri and have supported the Committee on Internal Security.

I cannot support it, however, when it proposes to supersede the judicial process and permit detention without due process of law.

Our Founding Fathers wisely provided the judicial process to protect the rights of all. When the means are available to the President for action in insurrection or invasion, I cannot believe that this Congress intends otherwise to permit or condone incarceration without the judicial process.

I ask my colleagues to join in defeating the amendment.

Mr. CLAY. Madam Chairman, who ever heard of "detention" camps in the United States? Anyone who is familiar with the Internal Security Act of 1950—the McCarran Act—knows of the possibility. Title I of that law establishes the Subversive Activities Control Board. Title II, referred to as the Emergency Detention Act, provides that:

The President of the United States may declare an internal security emergency when any of the following occur:

1. Invasion of the territory of the United States or its possessions.
2. Declaration of war by Congress.
3. Insurrection within the United States in aid of a foreign enemy.

Under any or all of these situations, or an interpretation by this Government that such a situation exists—the Attorney General can move into action to apprehend and detain citizens about whom there may be reasonable belief—not proof—that they might engage in acts of espionage and sabotage, individually or with others. A person merely needs to be suspected to be apprehended, without trial, without any determination of basis for detention.

Over 2 years ago, I joined with other Members of the House in sponsoring legislation to repeal title II of the Internal Security law. The Senate passed this measure unanimously on December 22, 1969—however, the House failed to act on this vital piece of legislation.

The bill being considered by the House today has some 160 cosponsors. Since enactment of the law, no President and no officer of this Government has ever put the detention authority to use. The fact that it exists—is sufficient provocation for taking action to repeal it. The implications of this detention provision for black people seem clear. The temper of our times and the posture of the present administration make it imperative that our efforts to repeal title II succeed.

This effort is being effectively led in the House by the gentleman from Hawaii, SPARK MATSUNAGA. This man vividly recalls and represents people who remember the torment of Japanese Americans throughout the duration of World War II. Because of ancestry, Japanese Americans were immediately made suspect of treason and detained in so-called relocation camps. Americans throughout this Nation should recall the Japanese Americans who gave their lives honorable service and distinction in performance of duties in the Armed Forces of this—their country—America. Only those who succeeded in a release from these camps were able to dedicate such service. The injustices endured by these Americans, whose color and foreign ancestry alone made them suspect, are sufficient to arouse our anxiety now for other Americans who might, under title II of this act, be subjected to similar or worse indignities.

No one can predict when this Nation may see fit to seize upon a witch hunt. Those of us who are sensitive to the nature of protest and to the hasty and violent reactions to dissent—feel warranted in our anxiety.

The climate created by our Nation's leadership worries me deeply. It is this administration which urged a breach of our constitutional rights by recommending prevention detention to implement a war on crime. The Nixon administration pressed for adoption of legislation which provides that law enforcement agencies may "prevent the return to the community of alleged crime repeaters"—while they are awaiting trial. In the past, these sorts of unconstitutional acts have been used against political dissidents—not burglary and rape criminals. The administration succeeded in having Congress pass a preventive detention bill for the District of Columbia which is to serve as a model for the Nation. With passage of this legislation on the national level, the jails probably could not hold all the civil rights marchers, ghetto residents, peace demonstrators and political activists who would be the criminals subjected to preventive detention.

The existence of the Emergency Detention Act and the pursuit by this administration for preventive detention authority rightfully instills fear in American citizens. It should, however, also

stimulate all our energies and resources to exercise the responsibilities of our citizenship toward a protection of the rights guaranteed us by the Constitution.

I urge my colleagues to reject H.R. 820, the alternate bill now being offered which would merely amend title II, retaining the offensive detention provisions. I urge the Members to support passage of H.R. 234 and repeal title II once and for all.

Mr. GALLAGHER. Madam Chairman, I rise today to express, in the strongest possible terms, my support for H.R. 234 to repeal title II of the 1950 Internal Security Act. I was one of the original cosponsors of the first proposals advanced by our distinguished colleague, SPARK MATSUNAGA and we would not be approaching the final end of the thought of detention camps in the United States if it were not for his intelligent hard work.

There is no room in the United States for concentration camps and, perhaps even more important, there is no room in our law for legislation which even suggests that concentration camps are a measured alternative. Interestingly, the repeal of title II has been seen as having some relation to the imprisonment of Americans of Japanese descent during World War II. Of course, this is not relevant in the sense of strict construction, because the Japanese Americans were imprisoned in 1942 and the Internal Security Act was a product of 1950. But in a symbolic sense, many groups in our Nation feel that they might meet the same fate as did the Japanese Americans and the provisions of title II would give congressional authorization for repeating actions which many have called the most grievous mistake made by the United States in World War II.

Let us be very clear about what we are debating today. We are not proposing to tear down concentration camps which have been constructed in the United States, nor are we proposing to release people who are now imprisoned in such camps. I am convinced that no detention camps, of the type allowed under title II now exist, nor do I believe that political prisoners have been imprisoned under its provisions. Nor do I believe that this administration, or any administration for that matter, has consciously moved to implement the Emergency Detention Act, or has the act figured in precise contingency planning.

Madam Chairman, you and I may know this to be true, but there are many in our land who do not share our faith in those who have occupied, or do occupy, power in the executive branch. Repeal of title II today will remove one irritant, one very real source of concern, one major roadblock to domestic tranquillity; I say that the House should take this symbolic step as a way to help restore unity.

We should make our action unequivocal. We should repeal the entire title II and not merely amend it, as has been proposed. I was especially interested to learn that the administration favors repeal, not amendment and this agreement with the actions taken by our Committee on the Judiciary, under its distinguished

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Chairman EMANUEL CELLER, should convince the majority of this House to end with total finality the possibility of detention camps for our citizens.

Madam Chairman, the provisions we repeal today are a part of another generation's politics of lost confidence. But it takes no particularly astute observer of the American scene to see that exactly the same kind of mistrust that permitted Americans of Japanese descent to lose their civil rights after World War II is now being directed toward other minorities today. By repealing title II we remove a blatant example of fear and suspicion and I would hope that we can begin to move forward here in the House on dozens of other items which create division.

What we need to do is to concentrate on ways to unite our people and to find ways to begin to trust each other again. Title II was an anachronism when it was passed in 1950, and yet it has taken us 20 years to undo the damage. The Emergency Detention Act was conceived in fear, passed in suspicion, and nurtured in an atmosphere of hate. By repealing it today, we give an indication that we may now be prepared to practice the politics of hope, and discard the politics of lost confidence.

Mr. DRINAN. Madam Chairman, in considering the proposed amendments to the Emergency Detention Act which are before this House today, I have been truly fortunate to have the counsel and wisdom of my very distinguished colleague on the Internal Security Committee, the gentleman from Florida (MR. PEPPER). In using the words "very distinguished" I do not speak lightly or out of mere formality. Madam Chairman, for the gentleman's career as a teacher, attorney, member of the Florida Legislative, U.S. Senator, and Member of this House has been one of the most extraordinary careers of public service and accomplishment in our Nation. Every Member of this House has benefited from his calm judgment and expertise. I have benefited from his counsel enormously.

Therefore, I am particularly gratified to have joined with the gentleman in our minority views on H.R. 820, which was reported out of the Internal Security Committee in March, and I respectfully commend those views to my colleagues:

MINORITY VIEWS ON H.R. 820: CONGRESSMAN ROBERT F. DRINAN AND CONGRESSMAN CLAUDE PEPPER

"The Constitution of the United States is a law for rulers and people, equally in war and peace, and covers with the shield of its protection all classes of men, at all times and under all circumstances." *Ex parte Milligan*, 71 U.S. (4 Wall.) 2 (1866).

With these words in mind, we must take sharp issue with the majority of this committee which has voted to retain title II of the 1950 Internal Security Act—the Emergency Detention Act—as part of the laws of the United States. We do not believe that the minor procedural changes which the majority proposes to make in that act correct those essential defects which cause us to urge its total repeal.

The United States is a democracy, a country created by people fleeing political and religious persecution in Europe. Essential to our system is the belief that freedom of political beliefs and associations must be protected, so that free debate of important public issues

can flourish. In contrast, the hallmark of totalitarian societies is the governmental imprisonment of its political opponents and critics in order to silence them. Yet the Emergency Detention Act authorizes precisely this kind of totalitarian conduct in the United States. For it authorizes the jailing of American citizens because of Government suspicions about their future conduct based solely on their political beliefs and associations. In the words of former United Nations Ambassador Arthur Goldberg "as one who has . . . urgently condemned forced labor camps in the Soviet Union and in other totalitarian states, I can tell you from personal experience that the mere existence of this statute is a grave embarrassment to us as a people. If we are to practice the freedom we profess, this statute must be eliminated."

It is for this reason that we have joined with more than 150 of our colleagues to seek, not procedural changes, but total repeal of this law.

THE CONSTITUTION AND DETENTION

Our Constitution is designed to prevent imprisonment of people under such circumstances except in the gravest of cases. In Article 1, section 9, it provides that "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless in Cases of Rebellion or Invasion the public Safety may require it." In the case cited at the outset of this dissent, *Ex parte Milligan*, 71 U.S. (4 Wall.) 2 (1866), the Supreme Court ruled immediately after the Civil War that so long as civilian courts remain open, a civilian cannot be tried before any other tribunal or denied the fundamental right of trial by jury. Said the Court:

"No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of [the Constitution's] provisions can be suspended during any of the great exigencies of government." 4 Wall. at 121.

The Supreme Court affirmed this doctrine after World War II in *Duncan v. Kahanamoku*, 327 U.S. 304 (1946), where it rejected the assertion that wartime security required continued military jurisdiction over civilians in Hawaii. Yet this is precisely what the Emergency Detention Act contemplates. People detained under it will not get a trial in a civilian court. They will not get a jury trial. They will not be allowed to confront and cross-examine their accusers. Although the act purports to be operable only in times of "rebellion or invasion," there is clearly no intention to restrict it to situations where our civilian courts have ceased to operate. As Congressman Louis Stokes wrote in his dissent to this very bill in the 91st Congress:

"If Congress declared war on North Vietnam tomorrow afternoon, the President could begin detention before nightfall, despite the unanimously accepted fact that our Vietnamese enemies constitute absolutely no direct menace to our shores. Similarly, detention could begin after an invasion by a minuscule foreign force of our most farflung possession even though this overreaching maneuver posed no threat whatsoever to our national security."

We cannot leave the issue of the underlying unconstitutionality of the act without a mention of the wartime cases upholding certain aspects of the relocation of Japanese Americans during World War II. Whatever *Hirabayashi v. United States*, 320 U.S. 81 (1943), and *Korematsu v. United States*, 323 U.S. 214 (1944), may have said about the increased powers of Government in time of war to order curfews and evacuations, they did not sanction detention camps. For that matter, in *Ex parte Endo*, 323 U.S. 283 (1944), the Court unanimously refused to sanction the detention of a citizen of Japanese ancestry conceded to be loyal. These cases contribute nothing to efforts to find this act constitutional.

Once the act is declared in effect, the Attorney General is authorized to apprehend and detain "each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of espionage or sabotage." (Emphasis added.)

Detention of the individual, it must be emphasized, is not on the basis of an overt act committed in violation of the law, but on the basis of mere suspicion that he may commit a crime. The act, thus, contemplates a form of "preventive detention" which, to avoid the crimes of espionage and sabotage at some unpredicted time in the future, completely suspends the presumption of innocence. It would be bad enough for people already charged with a particular crime to be deprived of this presumption. Here, however, the presumption is lost because of conduct which has not yet occurred and might never happen. Thus, a vital safeguard guaranteed by our system of government to persons accused of the most dangerous and serious crimes is denied to persons merely suspected of some conduct in the future.

H.R. 820 ALSO DEFECTIVE IN PROCEDURAL SAFEGUARDS

As is so often the case with laws which authorize the destruction of substantive constitutional rights, the act emphasizes procedural safeguards. However, no elaborate system of safeguards can cure the basic wrong of jailing citizens who have committed no crime, but who hold unpopular political beliefs. Even, however, if this were possible, most of the safeguards given in the current act, as well as those proposed by the bill approved by the majority of this committee, are no safeguards at all. The remainder merely repeat protections already guaranteed by the Constitution.

The act gives the detainee a right to a speedy preliminary hearing after detention. However, the right to an expeditious hearing is withdrawn in almost the same breath in which it is given. In the words of the act, a hearing is to occur "within 48 hours after apprehension, or as soon thereafter as provision for it may be made." § 104(d). (Emphasis added.)

The procedure under which the detainee is picked up and given a hearing involves no neutral magistrate or court. The prosecutor acting alone can issue a warrant. The "preliminary hearing officer" who gives the detainee his hearing is appointed by the prosecution, as is the Detention Review Board to which the individual is given a right of appeal.

At none of these hearings is the detainee afforded a right to jury trial, to cross-examination, or to confront his accusers. For, if in the opinion of the Attorney General "it would be dangerous to national safety and security to divulge," the detainee can be denied "the grounds on which his detention was instituted" or the "full particulars of the evidence . . . including the identity of informants."

The act appears to give the detainee judicial review of the decision to detain him. However, the Attorney General may again withhold information "the revelation of which in his judgment would be dangerous to the security and safety of the United States." The judicial review provision, moreover, makes the findings of the Government conclusive, so that the reviewing court can do nothing if the Government decision appears to be supported by substantial (if secret) evidence.

The greatest deception, however, in the offer of judicial review is one which could make it totally illusory. The detainee's right to judicial review only accrues after he receives a written order of the Detention Review Board. And there is nothing in the act which places a time limit which the Board must meet in rendering such an order.

THE CHANGES IN H.R. 820 DO NOT CURE ITS DEFECTS

What improvements does the majority's bill propose to make in this act? One change would require that both the President and the Congress decide to activate the law during an insurrection, instead of allowing the President alone to make that decision. The assurance of some kind of public debate before the act is invoked is no doubt an improvement, but it hardly outweighs the other dangers which cause us to oppose retention of the act in any form.

A second change would guarantee appointed counsel to any detainee unable to pay a lawyer. However, as the courts would no doubt ultimately hold that appointment of counsel in these circumstances is constitutionally required in any event, the provision appears more generous than it actually is.

One allegedly significant change proposed by the majority of the House Internal Security Committee supporting H.R. 820 is a provision guaranteeing that "no citizen of the United States shall be apprehended or detained pursuant to the provisions of this title on account of race, color, or ancestry." Inclusion of this language represents a direct attempt to quash the rumors rampant in black ghettos and among ethnic minorities in the past few years to the effect that the Government planned to use detention camps.

The minorities of today who hear these rumors cannot escape the recollection of what happened to those of Japanese origin during World War II. When compared to the treatment afforded citizens of German origin in that same war, there can be no doubt that the treatment of the Japanese was racially motivated. These fears were brought sharply into the 1960's by a report of the predecessor to this committee which suggested in a report that detention camps "might well be utilized for the temporary imprisonment of warring guerrillas." "Guerrilla Warfare Advocates in the United States," H. Rept. 90-1351 (May 6, 1968). Shortly thereafter, the chairman of that committee was publicly quoted as indicating that the reference had been to "mixed Communist and Black Nationalist elements across the Nation."

Unfortunately, the "race, color, or ancestry" language offers no real assurance that these fears will be quieted. First, the amendment is careful to omit "national origin," a phrase which is normally used in antidiscrimination legislation. Its omission therefore is significant. The broad freedom to imprison people because of their membership in groups could be used to detain groups on the basis of their "national origin." The act thus allows detention on the basis of standards other than the three criteria expressly prohibited. Moreover, under any standard, it would be an awesome task for any individual detainee to prove that his particular detention had been based on race.

What we need is a real assurance to all our citizens that detention camps are not part of the Government's plans for our minorities. Minor changes in this law will not do that. As the spokesman for the Department of Justice and the Nixon administration stated, in urging outright repeal of the act "continuation of the Emergency Detention Act is extremely offensive to many Americans . . . [T]he repeal of this legislation will allay the fears and suspicions—unfounded as they may be—of many of our citizens."

We could not agree more.

Before concluding, we feel a need to deal with one last argument which has been offered in support of the retention of the Emergency Detention Act. It is that it would be better to have legislation on the books limiting Executive discretion and guaranteeing procedural safeguards to those appre-

hended. Such an argument is meaningless. In the first place, this law itself confers almost complete discretion on the Government. Second, this law contemplates a rather wholesale suspension of constitutional rights when it is operative. *Ex parte Milligan*, *supra*, should teach us that the Government does not have this power under the circumstances contemplated under this act. Yet the law would purport to suspend those rights anyway. Should the day come when Government feels free to take this step, the existence of statutory safeguards will have little meaning. In this connection, it should be pointed out that the Nixon administration, through its officials directly responsible for internal security, has taken the position that the other laws on the books regulating espionage and sabotage are more than adequate to handle any situation that might arise and that this particular law should be repealed.

CONCLUSION

We suspect that some members of this body may dismiss the furor over the Emergency Detention Act with an "it can't happen here" attitude. We feel compelled to point out once again that it has happened here. During World War II, detention camps were a reality for more than 110,000 people of Japanese origin, more than two-thirds of whom were citizens of this country. That we all now agree that it should never have happened does not make the memory any less real. At the same time, today conduct unthinkable in the past appears to be becoming commonplace. A vast record of surveillance of the peaceful political activities of American citizens has been uncovered. The Attorney General invokes the "national security" to wiretap and eavesdrop upon domestic groups which by no stretch of the imagination pose any kind of threat to this country.

Viewed in this light, repeal of the Emergency Detention Act has become even more urgent. We must remove the law from the books so that there will be no temptation to use it because it is there. The amendments proposed by the majority would leave untouched the heart of the law. Its total repeal, however, will stand as a clear signal that this Government has repudiated once and for all the use of powers fundamentally incompatible with a free society.

ROBERT F. DRINAN, M.C.
CLAUDE PEPPER.

Mr. RARICK. Madam Chairman, I feel it is past time that this body give consideration to tightening our internal security laws rather than abolishing them. Especially is this so in lieu of events over the past several days at Attica, N.Y., which have resulted in the Governor of that State stating that the prison riots and violence were the provocation of revolutionaries and subversives at work in our country.

I, as much as anyone in this body, am opposed to the use of concentration camps and places of detention without due process of law. As a former prisoner of war, I have been in a concentration camp and know firsthand what it means to be denied one's liberties without recourse and with little hope except for escape. I am satisfied also that many of our captured fightingmen in South Vietnam, Korea, and Red China would have the same feeling about illegal detentions and concentration camps.

However, I also believe that those who have once lost their liberties would join with me in putting aside personal emotion to support the safety and protection of their country and their people as a whole. In fact, we would be better serving

our people and country today by debating how to free real American prisoners from real concentration camps behind the Communist curtain than by extended debate over a bill that would abolish nonexistent detention camps that contain no one.

The first order of our business must be to preserve our country and to protect our people. This is the primary reason for our existence. Everyday experience should emphasize the need for those in control of our Government to have authority to detain organized, identified saboteurs and espionage agents trained as hard-core revolutionaries.

To say that such a threat does not exist in our country is to be oblivious to everyday news, the warnings of our police and law enforcement officials, and the turmoil sweeping our land.

I, too, regret the highhanded action taken against our Japanese-American people on the west coast during World War II. I hold our colleague, the gentleman from Hawaii (Mr. MATSUNAGA) in high regard, but I am hopeful that in 1971 we are not being urged to strip our country of all security laws merely as a token gesture to the gentleman from Hawaii as if we can cleanse the guilt from our ancestors' hands. We are living in 1971, not 1942. I know of no reported instances where any Japanese is being detained anywhere in our country because of his nationality.

There are many immigrant races and national origins in our country, but to my knowledge, none has been identified as posing as any threat or enemy of the American people bent on the overthrow of our constitutional form of government. On the contrary, the identified enemy does not come at us identified by race, creed, or color, but rather by ideology—as atheistic and Communist.

The only identified faction in this country heard to complain about the threat of mass detention has been the Black Panthers and their white Communist overseers. The Panthers' fear of retaliation by their fellow countrymen is far offset not only by the fear and violence that the Panthers have performed, but also by what they promise in the future. Those who fear application of police state tactics must understand that it is they who are being exploited to bring about the conditions which they fear. Yet, like so many paranoid, they would dig their own grave and complain that it is too deep.

Others, in their glee to abolish nonexistent emergency detention camps are not heard expressing concern over the turning of our country into a concentration camp. While every libertarian present has expressed deep concern and remorse over the Japanese-American detention in 1942, not one tear has been shed for the repressive action being taken this very week against American children also including Chinese Americans in the State of California.

Can the supposed libertarians explain a difference between massive detention of a race for national security reasons and massive forced busing of children because of race for the express purpose of breaking down their traditions and cul-

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ture? I mention this because even though there are no Japanese Americans in any concentration camps today or even being so threatened, there are today Chinese Americans being denied their individual liberties under color of de facto U.S. laws.

I am opposed to section 2 of title II of the Internal Security Act of 1950 and support its repeal. In fact, I have so told the gentleman from Hawaii (Mr. MATSUNAGA) but I cannot support his bill in its present form because I fear we go too far in that committee amendments handcuff our internal security apparatus to the point where the bill could prove more destructive to the protection of our people than the law in its original form.

I expect to support the Ichord amendments and if either are adopted, plan to vote for the bill on final passage.

Mr. WILLIAM D. FORD. Madam Chairman, today I am joining with 159 of my colleagues in the House of Representatives in support of H.R. 234, the bill to repeal the Emergency Detention Act of 1950. The effect of the passage of H.R. 234 would be to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall ever be committed for detention or imprisonment in any Federal facility other than a penal or correctional institution.

I am extremely pleased and relieved that today Congress has the opportunity to eliminate this repugnant act. I find it incredible to believe that a nation which was founded to guarantee the rights of free speech and expression and whose judicial system is based upon the concept that an individual is innocent until proven guilty could have enacted a law which so seriously violates these principles. The Emergency Detention Act of 1950 permits the detention, during "internal security emergencies," of any person who is felt will "probably" engage in or conspire to commit acts of espionage.

Madam Chairman, the history of this century can only serve to remind us of the tragedies and injustices which can occur when governments have the authority to imprison large groups of people on the grounds of mere suspicion. Congress now has the chance to eliminate this unjust legislation from the statutes and to assure that, once and for all, the threat of its provisions will never be implemented in this country.

Mr. DELLOMS. Madam Chairman, the mere fact that no one has ever used the power to employ detention camps can not be a justification for continued existence of law authorizing them.

Last year as a candidate for Congress, I promised constituents of California's Seventh District that I would work to repeal title II of the Internal Security Act. I was proud this year to join with my colleague, the gentleman from Hawaii, in sponsoring H.R. 4241—a bill identical to the measure before us today.

I would like to take this time to explain my opposition to this type of remedy for social disorder. Too often, detention camps serve as part of the panacea thinking typical of the establishment. Serious human problems develop,

and the response by the establishment is to call for more detention camps, for more police funds, for higher defense budgets.

Instead of dealing with causes, the solutions focus on effects. The establishment calls for massive spending for so-called "internal security" while denying the needs and rights of millions of people who are forced to exist under inhumane conditions.

All of us understand the legal and/or political factors behind the need for H.R. 234. I agree with my colleagues in their analyses based on those grounds. And, of course, I am well aware of this country's tragic past history of concentration camps and why that tragedy can never be fully dispelled, why it should never be repeated under any conditions.

But I must emphasize the ethical corruption of any system which must resort to devices such as "emergency detention camps" as a method of solving serious human problems.

I urge passage of H.R. 234.

Mr. KOCH. Madam Chairman, I rise in support of H.R. 234, of which I am a co-sponsor, repealing the Emergency Detention Act of 1950. That legislation authorizes the establishment of emergency detention camps. This is not a complicated bill. Those of us supporting the bill wish to undo as best we can the great damage done to our Constitution when in 1942, 110,000 Japanese Americans were placed in American concentration camps for no reason other than that they were of Japanese extraction. It will be to our eternal shame that we did that and it is to our further discredit that we have let remain on our statute books a provision for the detention of innocent people. Our concentration camps were not, thank God, comparable to those of Nazi Germany where the incarcerated were tortured and killed. Nevertheless, our concentration camps tortured the souls of those innocent persons who were not guilty or even charged with a crime.

There is an attempt on the part of the chairman of the House Internal Security Committee to put a better face on the existing law by making some procedural changes, but the facts are that with those changes we will still have a law which will permit the United States to maintain concentration camps detaining people who have not been convicted of any crime. I will vote "no" when the Ichord substitute amendment is proposed and will vote "yea" in support of the Matsunaga bill on final passage.

Mr. DEVINE. Madam Chairman, I wish to cite two excellent examples of why there is an imperative need for a legislated procedure for detention of potential saboteurs in time of war.

One is the recent herding into Kennedy Stadium of several thousand persons holding a violent protest demonstration in our Nation's Capital. The civil libertarian, American Civil Liberties Union, has already protested that the facilities were inadequate for such a large number of detainees in the stadium and is demanding that the city have a plan and adequate facilities in the future.

Now I am not suggesting that there should be a Federal law providing for

the detention of mere demonstrators, antiwar demonstrators, or any other kind. I only cite this as an example of what chaos would most likely occur if there were no adequate legislation available to deal with potential saboteurs in time of war, invasion, or insurrection in behalf of a foreign power.

The other example I wish to cite concerns our friend and neighbor to the north, Canada. Not long ago Canada found herself confronted with insurrection from a group that was composed of French-speaking, Communist-oriented revolutionaries who sought separation from the mother country.

In order to accomplish this, they abducted two men, Pierre Laporte, Minister of Labor for the Province of Quebec, and James Cross, the Trade Commissioner in the British Embassy. Apparently just to prove they were deadly serious in their purpose, these revolutionaries strangled Laporte and left his body to be found by authorities.

Thus confronted, the Canadian Government thought it must move swiftly and forcefully to end this revolt and the accompanying bloodshed.

But the Canadian Government found itself helpless to act without employing drastic and dramatic measures. There was simply no adequate legislation on the books to deal with such a situation.

Therefore the Canadian Government had to actually declare war upon its own citizens. It put into force the War Measures Act which had been used only twice before—in World War I and II. Not even during the Korean war when Canadian forces fought under the United Nations flag was this drastic measure resorted to.

Once the War Measures Act was imposed, authorities immediately rounded up more than 340 persons suspected of belonging to or supporting the Front for the Liberation of Quebec—the FLQ—the revolutionary group who pulled off the kidnaping.

The police solved the case and ultimately arrested all the suspected kidnapers but not before they killed Mr. Laporte.

Madam Chairman, it is a pretty drastic move to have to actually declare war against a group intent on overthrowing your country. This would be similar to our declaring actual war against the Black Panther Party or the Socialist Workers Party.

After the War Measures Act was imposed, the Canadian Parliament hastily sat down and wrote a less repressive law to deal with the situation. But apparently the Parliament did not profit from its experience in this emergency because the new act was permitted to lapse when its time limit expired.

Madam Chairman, I do not propose that we have any legislation on the books even similar to that written in Canada.

I do propose that we have legislation adequate to deal with potential saboteurs, kidnapers, and assassins during time of war, invasion, or insurrection in support of a foreign enemy. I think it is imperative that we do.

I would also like to point out, Madam Chairman, that the legislation proposed

by the Judiciary Committee would not merely return our internal security situation back to what it was prior to the Internal Security Act of 1950.

With the unwise amendment written by the subcommittee chaired by the Honorable Mr. KASTENMEIER, the President would be powerless to act swiftly in time of national crisis.

I do not believe, Madam Chairman, that it is wise to tie Presidential hands in a situation where emergency action is required. I do not believe it is wise to strip powers from a President that have been traditionally his.

Mr. FRENZEL. Madam Chairman, I am proud to be listed as one of 160 co-sponsors of H.R. 234, a bill to repeal the Emergency Detention Act included as title II of the Internal Security Act of 1950. The bipartisan support of Congress, the overwhelming support of the Department of Justice and the strong backing given this measure by the administration are tributes to the need for the passage of this bill.

There is little justification for including among the laws of our land a statute allowing the establishment of detention camps. The fact that the law has not been invoked during the past 21 years does not make it any less distasteful, nor does it lessen the need for its removal.

What the hindsight of 21 years tells us was a mistake, can be corrected today by the passage of H.R. 234 with the committee amendment, I urge an affirmative vote.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. GRIFFITHS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 234) to amend title 18, United States Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the United States shall be committed for detention or imprisonment in any facility of the U.S. Government except in conformity with the provisions of title 18, pursuant to House Resolution 483, she reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY
MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit H.R. 234 to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 356, nays 49, not voting 28, as follows:

	[Roll No. 257]	YEAS—356
Abourezk	Danielson	Hastings
Abzug	Davis, Ga.	Hawkins
Adams	Davis, S.C.	Hays
Alexander	Davis, Wis.	Hebert
Anderson,	de la Garza	Hechler, W. Va.
Calfi.	Dellenback	Heckler, Mass.
Anderson, Ill.	Deltums	Heistoski
Anderson,	Dembholm	Henderson
Tenn.	Dennis	Hicks, Mass.
Andrews,	Dent	Hicks, Wash.
N. Dak.	Derwinski	Hillis
Annunzio	Dickinson	Hogan
Archer	Diggs	Hollifield
Arends	Dingell	Horton
Ashley	Donohue	Hosmer
Aspin	Dorn	Howard
Aspinwall	Dow	Hull
Barrett	Dowdy	Hungate
Beighen	Downing	Hutchinson
Belcher	Drinan	Jacobs
Bell	Duncan	Johnson, Calif.
Bennett	du Pont	Johnson, Pa.
Bergland	Dwyer	Jones, Ala.
Betts	Eckhardt	Jones, N.C.
Biaggi	Edmondson	Jones, Tenn.
Biesler	Edwards, Ala.	Karth
Bingham	Edwards, Calif.	Kastenmeier
Blanton	Ellberg	Kazan
Blatnik	Erlenborn	Keating
Boggs	Esch	Keith
Boland	Evans, Colo.	Kemp
Bolling	Evins, Tenn.	King
Bow	Fascell	Kluczynski
Brademas	Findley	Koch
Brasce	Fisher	Kuykendall
Brinkley	Flood	Kyros
Brooks	Foley	Landrum
Broomfield	Ford, Gerald R.	Latta
Brotzman	Ford, William D.	Leggett
Brown, Mich.	Forsythe	Lennon
Brown, Ohio	Fraser	Lent
Broyhill, N.C.	Frenzel	Link
Brynhill, Va.	Burke, Mass.	Lloyd
Buchanan	Burton	Long, Md.
Burke, Mass.	Byrne, Pa.	Lujan
Burton	Byrnes, Wis.	McClory
Byron	Fulton, Pa.	McCloskey
Cabell	Fulton, Tenn.	McClure
Caffery	Fuqua	McCollister
Camp	Galifanakis	McDonald
Carey, N.Y.	Gallagher	McDermack
Carney	Gaydos	McDade
Carter	Gettys	McDonald,
Casey, Tex.	Giammo	Mich.
Cederberg	Gibbons	McFall
Celler	Gonzalez	McKevitt
Chamberlain	Goodling	McKinney
Chisholm	Grasso	McMillan
Clancy	Gray	Macdonald,
Clark	Green, Oreg.	Mass.
Clausen,	Green, Pa.	Madden
Don H.	Griffiths	Mahon
Clawson, Del	Grover	Mailliard
Clay	Gubser	Mann
Cleveland	Gude	Martin
Collier	Hagan	Mathias, Calif.
Collins, Ill.	Halpern	Matsunaga
Collins, Tex.	Hamilton	Mayne
Conte	Hammer-	Mazzoli
Conyers	schmidt	Meeds
Corman	Hanley	Melcher
Cotter	Hanna	Metcalfe
Coughlin	Hansen, Idaho	Michel
Culver	Hansen, Wash.	Mikva
Daniels, N.J.	Harrington	Miller, Calif.
	Harsha	Miller, Ohio
	Harvey	Mills, Ark.

Mills, Md.

Minish

Mink

Minshall

Mitchell

Mollohan

Monagan

Moorhead

Morgan

Morse

Moser

Moss

Murphy, Ill.

Murphy, N.Y.

Nash

Natcher

Nedzi

Nelsen

Nix

Obey

O'Hara

O'Koniski

O'Neill

Patten

Pelt

Pepper

Perkins

Pettis

Peyser

Pickle

Pike

Pirnie

Poddell

Poff

Powell

Preyer, N.C.

Price, Ill.

Pryor, Ark.

Pucinski

Quie

Quillen

Rallsback

Randall

Rangel

Rees

Reid, Ill.

Reed

to prohibit the establishment of detention camps, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. MIKVA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

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

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks announced that Mr. Anderson be appointed as an additional conferee on the bill (H.R. 10090) entitled "An Act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian Regional Commission, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1972, and for other purposes."

PERMISSION TO FILE SUPPLEMENTAL REPORT ON H.R. 9212, EXTENDING BLACK LUNG BENEFITS

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to file a supplemental report on the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

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

There was no objection.

FARMERS HOME ADMINISTRATION

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

Mr. PURCELL. Mr. Speaker, I am introducing today a bill which would consolidate and focus through one point in the Federal Government the commitment which Congress made last year, in the Agriculture Act of 1970, to the needs of rural America. It is a good bill, predicated upon our needs as a nation, not upon the needs of one section of the country, or of just one section of the economy.

This legislation is designed to overhaul the Farmers Home Administration, turning it into the driving force behind our efforts to revitalize a region so huge that, if it were a separate country, it would rank in area as the world's ninth largest. This section of our country contains the

highest proportion of our poverty, the lowest average per capita income, the most inequitable distribution of educational opportunity and the bulk of our inadequate housing.

Today the Farmers Home Administration has the authority to make loans and grants to finance housing, water and sewer systems, telephone systems and recreational facilities. This authority is subject to a number of limitations including population and spending ceilings. Basically, my bill would add to this list of authorized projects the financing of small- and medium-sized industrial projects.

Statistics confirm the pattern that the Nation's urban areas accommodate over 73 percent of the people on just over 2 percent of the land. Thus, in our rural areas, we have more room than people—more than enough space to expand—and a real need for the advantages that business and industry can provide.

If we are to do anything about the population migration which is stifling the cities, it must be to build opportunity in rural America. Opportunity means job opportunity, educational opportunity, opportunities in the areas of recreation and other community facilities.

By remodeling the Farmers Home Administration within the Department of Agriculture, we could have at our fingertips one of the most effective agencies in the Federal Government structured to accommodate all the needs of a concerted rural development program.

Consistent with the national need to hold the line on spending, my bill would create no new levels of Federal bureaucracy. With its 1,700 local county offices, Farmers Home Administration is one of the most highly decentralized agencies of the Government. It has achieved an outstanding record of working closely with local people. This bill would put that record to work for all of rural America's needs.

Under an administration proposal, Farmers Home and the other agencies of the Department of Agriculture would be scattered among four new superdepartments. I believe this would fragment rural development efforts to even a greater degree than at present. By streamlining the Department of Agriculture, rather than by abolishing it as the administration suggests, my bill would give rural America the benefit of a truly nationwide, comprehensive program. Up to now no department or agency has been able to provide this.

The most significant change which this bill would make is to expand the traditional application of Farmers Home Administration loans. The agency would be authorized to finance small- and medium-sized commercial and industrial establishments.

Presently, there is a \$100 million ceiling on loans which may be made from the Agriculture Credit Insurance Fund. My bill would raise that ceiling to \$500 million. At the same time it would transfer the direct loan account to the Agriculture Credit Insurance Fund. In this way, by having more money to guarantee loans from private banks, money can

flow within rural America—not between rural America and Washington.

Industry will not come to rural America on its own, however. Commercial facilities must be attractive enough to support the development of small businesses. Under the present Consolidated Farmers Home Administration Act there is a \$100 million ceiling on grants for water and sewer system development for the entire Nation. My bill proposes the removal of that ceiling. The administration's revenue-sharing program proposes the removal of the whole program.

There is currently a maximum loan and grant total for any water or waste disposal facility of \$4 million. This would raise this to \$10 million.

Generally, the bill I have introduced would extend the authority of Farmers Home to a sweeping category of "Rural Area Development." It would increase the population limit of rural areas eligible for this assistance from 5,500 to 10,000. Last year Congress granted authority to Farmers Home to make housing loans in rural areas up to 10,000 population.

The bill would give the Farmers Home Administration the authority to raise funds for these rural area development projects by allowing the sale of insurance paper on the private market in the same way it now obtains funds for housing, community facility, and farm ownership loans. This would channel billions of dollars of private capital into rural areas without destroying dozens of successful programs as suggested by the administration's rural revenue-sharing program.

Rural area development is not a partisan issue, Mr. Speaker. Neither is it a sectional issue. The population patterns which have sent most of our population to 2 percent of the land are simply wrong. We owe it to the Nation to make the changes which we know must be made. This bill is a serious effort to do just that.

BEVILL OPPOSES FORCED BUSIN

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

Mr. BEVILL. Mr. Speaker, I rise today to voice my strong opposition to the forced busing of schoolchildren which is taking place throughout the country. I fail to see any good that can come from this forced busing, but I can see many reasons why it should be stopped.

Forced busing is causing much confusion and disrupting the orderly educational process. We must not lose sight of the fact that schools are supposed to educate children. Teachers should teach. They should not be required to bribe about social change.

The continued use of forced busing is interrupting the orderly process of hundreds of school districts throughout the Nation, bringing about chaos and disruption and pushing us toward the brink of violence.

Almost without exception, parents and educators in all parts of the United States have voiced opposition to forced busin