The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

The title was amended to read: "Joint resolution to improve the administration of justice by authorizing the Judicial Conference of the United States to establish institutes and joint councils on sentencing, to provide additional methods of sentencing, and for other purposes."

A motion to reconsider was laid on the table.

AMENDMENT TO ACT OF AUGUST 26, 1950, RELATING TO SUSPENSION OF EMPLOYMENT OF CIVILIAN PERSONNEL OF THE UNITED STATES IN THE INTEREST OF NATIONAL SECURITY

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 624 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1411) to amend the act of August 26, 1950, relating to the suspension of employment of civilian personnel of the United States in the interest of national security. After general debate, which shall be confined to the bill and continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. COLMER. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Ohio [Mr. BROWN] and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 624 makes in order the consideration of S. 1411, a bill relating to the suspension of Federal employees for security reasons. The Resolution provides for an open rule and one hour of general debate.

By the action of the Supreme Court in the case of Cole versus Young, the operation of the Government's security program has been drastically limited inasmuch as it was held in the majority opinion of the Court that it was not the intent of Congress that Public Law 733 of the 81st Congress, the existing security law, be extended to nonsensitive positions. This means that since this decision was handed down the government has had no effective way of removing disloyal employees from 80 percent of the positions in the government which come under this nonsensitive category.

S. 1411, as amended by the House Post Office and Civil Service Committee, provides that all employees of any department or agency of the government are deemed to be employed in an activity involving national security. It also provides that the head of any department or agency may, in his discretion, suspend the employment of any employee when he deems it necessary in the interest of national security. However, the department or agency head is not required to suspend an employee prior to the final disposition of his case. In either event, employees have certain safeguards for their protection. An employee is entitled, under the provisions of the bill, to a written statement of the charges against him, an opportunity to answer the charges, a hearing at the employee's request, and a review and written decision by the department or agency head. If it is found that the suspension or removal is not justified, the employee would be entitled to compensation for the period he was not on the payroll. In addition, an employee is entitled to appeal the decision to the Civil Service Commission and the decision of the Commission would be final.

It hardly seems necessary to point out to the House the importance of this legislation. I am sure that no one can argue that there should be in the employ of the Government individuals who are not loyal to the United States and constitute a risk to our security. This bill provides the necessary procedures by which all persons who are security risks may be removed from the Federal payroll.

I urge the adoption of House Resolution 624.

Mr. BROWN of Ohio. Mr. Speaker, the minority has no requests for time.

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

The previous question was ordered.

The resolution was agreed to.

Mr. MURRAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1411) to amend the act of August 26, 1950, relating to the suspension of employment of civilian personnel of the United States in the interest of national security.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 1411, with Mr. PRICE in the chair.

The Clerk read the title of the bill.

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

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

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

Mr. MURRAY. Mr. Chairman, this bill as a committee amendment directs itself to correcting a situation that has arisen since the decision of the Supreme Court of the United States in the case of Cole against Young, on June 11, 1956, and which in substance held that the security program covering Federal employees applied only to those employees whose positions had been determined to be sensitive.

The bill amends the act of August 26, 1950, Public Law 733, 81st Congress, which was enacted for the purpose of granting the heads of certain specified departments and agencies authority to suspend and to dismiss security risks and vested in the President the power to extend such authority to all departments and agencies of the Government.

Public Law 733 originated on the basis of a recommendation to the Congress from the Secretary of Defense, Honorable Louis Johnson, on February 21, 1950, and was strongly endorsed by all of the executive departments and agencies.

The Secretary of the Navy, Mr. Dan Kimball, under Secretary of Defense Johnson, brought the bill to me and discussed it with me at length before I introduced it. I thought I thoroughly understood the purposes and objectives of the bill when I sponsored it.

The bill was H. R. 7439 and it was for the purpose of ferreting out and dismissing or discharging all subversive employees in our Government. The bill, which is Public Law 733 first names 11 agencies, starting with the Department of State, the Department of Commerce, the Department of Justice, the Department of Defense, and others; and then provides that the provisions of this act shall apply to such other departments and agencies as the President may from time to time deem necessary in the best interests of national security. That if any other department or agency is included by the President he shall so report to the Committee on Armed Services of the Congress.

This bill was approved and became law on August 26, 1950.

Thereupon, in 1953, the President by Executive order, extended this law to all departments and agencies. I have here a copy of the order which says that it shall apply to all departments and agencies. It reads as follows:

> The head of each department and agency of Government shall be responsible for establishing and maintaining in his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of national security.

That was in 1953. Then in 1956, the Supreme Court in the case of Cole against Young held that regardless of this order of the President in 1953 that it applied only to sensitive positions, that it did not apply to nonsensitive positions. In the case of Cole against Young the defendant—that is what we would call him if it were a criminal case—was an employee of the Food and Drug Administration. He was a food and drug inspector in the city of New York. He was discharged under Public Law 733. First he was dismissed under it, and then he later appealed to the courts. The facts showed that Cole belonged to a number of subversive fronts and associated with communistic elements. It showed that he contributed to some of these subversive causes.

He did not appear for a hearing by the head of his department. He was invited to appear, but did not appear. Later he brought suit for his position to be restored.

I quote from a dissenting opinion of the Supreme Court of June 11, 1956, delivered by Justice Clark and concurred in by Justices Reed and Minton:

Petitioner, a food and drug inspector employed in the Department of Health, Education, and Welfare, was charged with having "established and * * * continued a close association with individuals reliably reported to be Communists." It was further charged that he had "maintained a continued and sympathetic association with the Nature Friends of America, which organization" is on the Attorney General's list; and "by (his) own admission donated funds" to that group, contributed services to it and attended social gatherings of the same. Petitioner did not answer the charges but replied that they constituted an invasion of his private rights of association.

Cole carried that case to the Supreme Court. The Supreme Court in a divided decision by a vote of 6 to 3 held that the head of the Food and Drug Administration did not have the right to discharge Cole because he was not working in a sensitive position. There was a minority opinion in that case delivered by Mr. Justice Tom Clark, who had been Attorney General of the United States before being appointed to the highest Court of our land. The opinion of Mr. Justice Clark was joined in by Mr. Justice Reed and Mr. Justice Sherman Minton. Here is what Mr. Justice Clark and the other two Justices stated in the minority opinion:

They say this:

The President believed that the national security required the extension of the coverage of the act to all employees. That was his judgment, not ours. He was given that power, not us. By this action the Court so interprets the act as to intrude itself into Presidential policymaking. The Court should not do this especially where Congress has ratified the President's action. As required by the act, the Executive order was reported to the Congress and soon thereafter it came up for discussion and action in both the House and the Senate. It was the sense of the Congress at that time that the order properly carried out the standards of the act and was in all respects an expression of the congressional will.

Further, the dissenting opinion said this:

We believe the Court's order has stricken down the most effective weapon against subversive activity available to the Government. It is not realistic to say that the Government can be protected merely by applying the act to sensitive jobs. One never knows just which job is sensitive. The janitor might prove to be in as important a spot security-wise as the top employee in the building. The Congress decided that the most effective way to protect the Government was through the procedures laid down in the act. The President implemented its purposes by requiring that Government employment be "clearly consistent" with the national security. The President's standard is "complete and unswerving loyalty" not only in sensitive places but throughout the Government. The President requires and every employee should give no less. This is all that the act and the order require. They should not be subverted by the technical interpretation the majority places on them today.

I agree wholeheartedly with the dissenting opinion of the three Justices headed by Justice Clark.

This legislation is for the purpose of correcting the majority decision in the case of Cole versus Young. It holds that all employees are working in the interest of national security and can be discharged under Public Law 733.

I regret that the Supreme Court has seen fit to deliver this majority opinion in this case. It is necessary that the Congress take action to clear up the situation so it can properly and effectively deal with subversive employees. I do not care in what capacity an employee may be in the Government, if he is subversive, if he is a Communist, then, if he is a floorsweeper, if he is an executive, if he is a clerk or stenographer, I do not care where he works, if he is an employee of the Government and is subversive, then that person should be immediately dismissed by the Government.

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

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

Mr. YATES. I agree with the gentleman that if an employee is subversive he should be fired by the Government. The information that was given to our appropriations subcommittee, which deals with the appropriations for the Civil Service Commission, was that the question of loyalty may now be considered by the Civil Service Commission in appraising an employee's job under the term "suitability." We inquired about it, and the Civil Service Commission told us that if there were grounds to suspect an employee of disloyalty he could be discharged under present civil service regulations as an unsuitable person. Would the gentleman agree with that statement?

Mr. MURRAY. That is a different field. We provide that if there is a question of suitability, or of the fitness of the employee, then he can be discharged under the Lloyd-La Follette Act and the Veterans' Preference Act. But where an employee has been found subversive, then the provisions of Public Law 733 should control.

Mr. YATES. I quote to the gentleman from page 506 of the hearings of the Independent Offices Appropriation Committee, where Mr. Irons of the Civil Service Commission was asked this question by Mr. THOMAS:

Do you mean by that that you have loyalty mixed up in this investigation of full suitability cases, too?

Mr. Irons said:

Loyalty is involved here, too. Loyalty is a factor of suitability.

I do not understand the distinction the gentleman seeks to make between the question of subversiveness and loyalty. Is there a distinction the gentleman seeks to make?

Mr. MURRAY. No.

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

Mr. MURRAY. I yield to the gentleman from Georgia.

Mr. FORRESTER. May I ask the gentleman if the answer to the question of the gentleman from Illinois is not found in the positive fact that there were hundreds of these employees on the roll, and it has already cost the taxpayers of America about $450,000 to get rid of them?

Mr. MURRAY. The gentleman is entirely correct.

Mr. FORRESTER. That is what the gentleman is trying to do, and that is what I want to help the gentleman do.

Mr. MURRAY. I thank the gentleman.

About the time the Senate was taking action on S. 1411, the report of the Commission on Government Security, generally known as the Wright Commission, became available. This Commission was headed by the Honorable Loyd Wright, of California. Its Vice Chairman was the Honorable JOHN STENNIS, Senator from Mississippi. The other members were: Hon. Norris Cotton, Senator from New Hampshire; F. Moran McConihe, of Maryland; Hon. William M. McCulloch, Representative from Ohio; James P. McGranery, of Pennsylvania; Edwin L. Mechem, of New Mexico; Franklin D. Murphy, of Kansas; James L. Noel, Jr., of Texas; Susan B. Riley, of Tennessee; Louis S. Rothschild, of Missouri; and the Honorable Francis E. Walter, chairman of the House Un-American Activities Committee.

The Wright Commission was set up to recommend a policy with respect to the security of our Nation as it relates to the loyalty and security of individuals. It was hoped to settle once and for all the question of what to do when there were cases of a reasonable doubt of the loyalty of individuals to the United States. Legislation was submitted by the Wright Commission which I introduced as H. R. 8322, and Mr. REES of Kansas, the ranking minority member of our committee, introduced it as H. R. 8323. The official request for this legislation was referred to our committee. However, upon thorough review, it was found that the bills contained many issues that ran across jurisdictional lines of the Committee on Un-American Activities, the Committee on the Judiciary, the Armed Services Committee, the Joint Committee on Atomic Energy, and possibly others.

Our colleague, the Honorable FRANCIS E. WALTER, also had introduced legislation, H. R. 981, which was intended to correct situations which arose following the Cole against Young decision and to carry out the original purpose of Public Law 733, 81st Congress. This is the decision to which I referred in my opening remarks.

Immediately upon receipt of the Wright Commission report, hearings were scheduled at which both the gentleman from Pennsylvania [Mr. WALTER] and Mr. Wright testified. It immediately became apparent to our committee that, because of the comprehensiveness of the Wright Commission proposal and the various conflicts of jurisdiction previously mentioned, if we were going to take any prompt and effective action we would have to limit it to the area in which our committee has had experience and has been in the forefront. That area, of course, relates specifically to the Federal employees' loyalty and security program.

As chairman of our committee, I was the author of Public Law 733, 81st Congress, based on legislation submitted by the administration and brought to me

personally by the Honorable Dan Kimball, the then Secretary of the Navy. This legislation was intended to supersede legislative riders on appropriation acts that had provided for arbitrary dismissal by heads of departments and agencies without any procedural protection whatsoever for the individual concerned. Public Law 733 provided such protection. It spelled out specifically the departments and agencies to which it applied. They are Departments of State, Commerce, Justice, Defense, Army, Navy, Air Force, and Treasury, and the Atomic Energy Commission, National Security Resources Board, and National Advisory Committee for Aeronautics. Public Law 733 also provided that its provisions could be extended by the President to all other departments and agencies.

This law was approved to take care of loyalty situations which could not be met by then existing Federal employees' loyalty program which had been set up under authority of Executive Order No. 9835, dated March 21, 1947.

The present administration, on April 27, 1953, issued Executive Order No. 10450, which superseded the loyalty program set up by Executive Order 9835 and is still in effect. This new Executive order extended the provisions of Public Law 733 to all departments and agencies. It did not declare all positions in the Federal Government to be positions affecting the national security but left that decision up to the heads of departments and agencies.

The head of the Department of Health, Education, and Welfare did not declare the position held by Kendrick M. Cole as a sensitive position (one affecting the national security). The Supreme Court, contrary to my view of Public Law 733—and I point out that I was the sponsor of that law—has now held in effect that because of Executive Order 10450, only those positions declared by the heads of departments and agencies to be sensitive are positions from which employees may be discharged under the terms of Public Law 733.

There have been complaints regarding certain operations under Public Law 733 which fall in three general categories. First, there was the lumping together of figures reporting suitability separations and strictly security and loyalty separations. The Members of the House will recall that there were a number of hearings held both in the House and Senate on this point.

A second objection was the lack of an appeal by the individual to an agency other than the agency separating him as a security risk.

Third, there was the complaint of the lack of uniformity in security procedures.

The committee amendment, which now appears in S. 1411, contains first of all the language of the Senate-passed bill which will permit employees under investigation to be kept on the job at the discretion of the head of the agency until the investigation and hearing are completed. Secondly, it contains substantially all provisions of the legislation introduced by our colleague, Congressman WALTER, in H. R. 981, which by law extends the provisions of Public Law 733 to the heads of all departments and agencies and defines all Federal positions as positions affecting the national security.

In addition, our committee amendment contains 3 provisions which direct themselves to the 3 complaints, voiced against operations under the existing program. In the first place, it requires that cases of separations for suitability, that is, where loyalty and security are not involved—to be handled under existing procedures, set forth in the Lloyd-LaFollette Act and the Veterans' Preference Act of 1944 if consistent with the national security. Secondly, it provides for an appeal to the Civil Service Commission by any employee seperated as a loyalty or security risk—a provision which would bring about uniformity of administration and, as just an aside, in my opinion, would have developed in an early stage in the procedures any deficiencies such as caused the Federal Government to have to place back on the payroll 5 employees removed at Fort Monmouth, N. J., and pay them $180,000 in back pay.

As to uniformity, it will be clear from the discussion of the committee amendment that with its enactment the provisions of Public Law 733 will be applied uniformly on a Governmentwide basis—that is, to all departments and agencies, to all employees, and to all positions.

We have yet to hear from the administration with respect to a firm recommendation on the Wright Commission's report. As I have indicated, this bill as reported by the Post Office and Civil Service Committee pretty well parallels the recommendations of the Wright Commission as they relate to Federal personnel.

With respect to the position of Mr. Wright, whose report covered some 800 pages, he made this statement at our hearings:

> Mr. Chairman, as an individual citizen, if I might be privileged to endorse that bill, H. R. 981 (Mr. WALTER's bill), I think it is imperative that we have some stopgap legislation.

We have waited as long as we possibly can for recommendations from the administration. In the absence of their recommendations, I hope that the House will approve this legislation, which is in line with the recommendation of Mr. Wright, in line with the recommendation of the Post Office and Civil Service Committee, and in conformity with the views of one of the greatest experts of the House in this matter, Representative FRANCIS WALTER.

The Wright Commission reported 77 documented cases of employees placed back on the payroll who had been separated as security risks in matters relating strictly to security.

I have just received a report from the Civil Service Commission, made at my request, which shows that 100 employees separated under the security program established by Public Law 733 have been restored and were paid $421,315.78, and that there are cases of 6 employees still pending which have not yet been settled.

Mr. Chairman, I hope that the House will give this bill an overwhelming vote.

Mr. REES of Kansas. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I agree wholeheartedly with the splendid statement of Chairman MURRAY with respect to the need for the enactment of S. 1411, as amended by the House Post Office and Civil Service Committee, relating to the suspension of employment of Federal employees in the interest of national security.

I have had a special interest in this problem for more than 15 years and I hope the efforts of those of us in Congress who have tried to secure an effective security program will not be wasted. In 1946, I secured the adoption of a resolution for the then Civil Service Committee to conduct an inquiry into the malfunctioning of the Federal employees loyalty program. The findings of our committee, which showed extreme laxity in certain quarters in the executive branch concerning the protection of our Government from the infiltration of subversive elements, were used by President Truman to establish a Federal employees loyalty program.

It became quite clear in the years which followed that a sound Federal employees security system, to be really effective, should be based on law rather than upon the whims and caprices of the particular individual who happens to be administering the program at that time. The majority of Members of the House of Representatives in 1948 agreed that legislation was desirable and approved a bill which I introduced establishing a Federal employees loyalty program.

The other body failed to approve this legislation and it became necessary in 1952 for the present administration to provide a security program based upon Public Law 733, 81st Congress, which dealt with the summary removal of Federal employees who act in a manner jeopardizing national security. I suggested that any Executive order based on such legislation could not be truly effective because it lumps security and loyalty cases together.

Following the decision in the case of Cole against Young which invalidated a portion of the security order issued in 1953, it became necessary for the Federal Government to reemploy security risks in nonsensitive positions. As pointed out by Chairman MURRAY, under this decision and decisions of the Department of Justice, Federal departments and agencies have now been required to pay over $450,000 in back compensation to persons who were removed from the Federal payroll as security risks over the last several years.

The only effective way to deal with this vital problem which affects the national defense, is by the enactment of this legislation which you are now considering and which provides the following:

First. The head of any department or agency may suspend any employee from his employment when deemed necessary in the interest of the national security.

Second. Following such suspension, within 30 days, any such employee shall have an opportunity to reply.

Third. Following a complete review of the investigation the department or agency head may terminate the employment of such suspended employee when he determines that such action is necessary in the interest of national security.

Fourth. The suspended employee is entitled to a written statement of charges, a reasonable opportunity to answer, a hearing, a review of the case by the department head, and a written decision.

Fifth. The term "national security" means all Government activities of the United States involving national safety and security.

Sixth. Under section 3 of the bill, as amended, all employees of every department or agency of the Government are deemed to be employees in an activity involving national security.

Seventh. Any person who is reinstated to duty is allowed compensation for the period of time he was not on the payroll in an amount not to exceed the amount he would have earned had he remained in the position from which he was separated and the net earnings of such person during the period of suspension.

Eighth. Any employee adversely affected under the legislation is entitled to appeal to the Civil Service Commission and the Commission's decision, after a complete review, shall be final and shall be complied with by the department head.

The simple purpose of this legislation is to reaffirm the intent for which Public Law 733, 81st Congress, was enacted. The effect of the decision in Cole against Young was to eliminate any security program for persons occupying nonsensitive positions in the Federal service. In my opinion, Communists, those who advocate the overthrow of our form of government, and those who are security risks are no more entitled to occupy positions in nonsensitive activities than they are entitled to have positions in sensitive areas. As stated by the Civil Service Commission on July 5, 1955:

The Cole decision limits drastically the operation of the present security program. This program can no longer be applied to the approximately 80 percent of the 21,000 persons entering the Federal service monthly in nonsensitive positions. This decision will require corrective action in many of the cases which are being processed under the present program and will also nullify many actions heretofore taken during the past 3 years in the interests of national security.

For example, at the time of the decision there were 17 cases in which employees had been suspended pending adjudication. These 17 individuals have been restored to duty and their cases must now be processed under some authority other than the act and Executive Order No. 10450.

The 2 cases cited below are illustrative of the type of cases involved among these 17 cases:

Case A: A member of the Communist Party in 1945 and press director of the Paul Robeson Club of the Communist Party. An active supporter of a Communist Party member who ran for a State office and was subsequently indicted under the Smith Act and given a sentence of 5 years and fined $5,000. Subject has been a close associate of known members of the Communist Party.

Case B: From approximately 1930 to 1934 was a member of the Young Communist League and subsequent to 1934 attended mass meetings and parties of the Young Communist League and of the Communist Party. Subject's wife and his brothers were members of the Young Communist League and subject has been a close associate of Communist sympathizers.

In addition to these 17 cases, we estimate that there are some 280 cases involving individuals who have been removed under the program and who will be seeking restoration and back pay as a result of the decision. All those cases must be reviewed to determine whether further action will be necessary. Whatever action is to be taken cannot be taken under the limited security program resulting from the Cole decision.

The effect of this is demonstrated by the situation wherein the Post Office Department may be compelled to restore to duty under the Cole decision at least four indivduals who were members of a Communist Party cell in the New York Post Office.

Incidentally, there were more than that in the New York Post Office, it was discovered.

As it has developed many of those person who were separated on security grounds have been restored to their former positions under the Cole decision and have received large lump sum payments. Chairman Murray has furnished you with the most recent information which the committee has compiled.

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

Mr. REES of Kansas. I yield to the gentleman from California, who is a member of the committee.

Mr. HOLIFIELD. I thank the gentleman. Why were they not disposed to discharge these particular people who were charged with being Communists under Public Law 831 of 1950, which specifically prohibits the employment of Communists? Or Public Law 252, the Hatch Act, which also prohibits the employment of Communists? Why did they not use that method?

Mr. REES of Kansas. Many of the 100 employees discharged and then returned are Communist sympathizers, some are fellow travelers. They are people not loyal to the American Government. Public Law 831 deals with known Communists.

Unfortunately there are some people who have the idea that being employed by the Government is a right rather than a privilege. The gentleman knows that very well.

Mr. HOLIFIELD. Some people have that idea, but I certainly do not hold it. I point out, however, that there are two laws on the books now which prohibit Communists from working for the Government. The fact that they used the wrong law to discharge these people does not establish the need for an additional law, in my opinion.

Mr. REES of Kansas. There may be those who thing this legislation is not strong enough.

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

Mr. REES of Kansas. I yield.

Mr. DOLLINGER. Suppose a person is discharged as a subversive under this bill. Would he have the right of review by the Civil Service Commission?

Mr. REES of Kansas. Yes.

Mr. DOLLINGER. Suppose the Civil Service Commission found that the firing by the agency was justified, would the employee have the right of review by the courts?

Mr. REES of Kansas. He would.

Mr. DOLLINGER. In this bill there is no provision for the right of review by the courts. The bill states that the Civil Service decision shall be final and complete.

Mr. REES of Kansas. There is always the fundamental right of appeal to the courts and properly so.

Mr. DOLLINGER. That is the thing I am troubled about. The person might be improperly charged with being a subversive and might want to have an opportunity to defend himself in an impartial tribunal. I want some assurance written into the bill that he would have the right of review by the courts.

Mr. REES of Kansas. I would say that under present law any person has the right to appeal from the decision of any commission if he desires to.

Mr. DOLLINGER. In spite of the fact that the bill provides that the decision by the Civil Service Commission shall be final and complete?

Mr. REES of Kansas. Final and complete; but he can always appeal to the courts. He has that right. You cannot take that right away from him under any condition.

Mr. YATES. Mr. Chairman, will the gentleman yield at that point?

Mr. REES of Kansas. I yield.

Mr. YATES. The gentleman stated a few moments ago that employment in the Federal service is not a matter of right, yet this is a statement of law as was expounded in the Bailey decision. If this is not a statement of law and this bill provides that the final decision of the Commission shall be determinative of every question, how, then, may a person go to a court of law for review?

Mr. REES of Kansas. Just as he can in every case where a person thinks he has been wronged by any agency; he can go into court.

Mr. YATES. If he has any right, his appeal is to the Commission, and this bill says the Commission shall decide once and for all about his job; what, then, is there for the courts to review?

Mr. REES of Kansas. The employee has the rights he has always had, and even more. In respect to review, he will have more rights than he has now.

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

Mr. REES of Kansas. I yield.

Mr. HOLTZMAN. I submit that the only basis he would have upon which to go into court would be the constitutionality of this bill we are considering today should it pass and become law. In essence this bill takes away from him any right of review in the courts.

Mr. REES of Kansas. You cannot take constitutional rights away from any individual. No one approved that.

Mr. YATES. If the gentleman will yield, he would only have the right to

appeal on constitutional grounds. If he has no constitutional ground for upsetting the decision of the Commission, then I assume under the provisions of this bill he would not have any right to have the court review it.

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

Mr. REES of Kansas. I yield.

Mr. LESINSKI. Is not the Constitution of the United States the so-called paramount law of the land?

Mr. REES of Kansas. It is the law of the land; yes.

Mr. LESINSKI. So, irrespective of this bill, the aggrieved person could appeal to the courts.

Mr. REES of Kansas. Certainly. The gentleman is correct.

Mr. LESINSKI. He still has the right of appeal to the Federal court. Therefore, irrespective of what the bill provides he can still go further and appeal the constitutional right.

Mr. REES of Kansas. That is right. The statement of the gentleman is correct.

Mr. LESINSKI. It does not cut that out.

Mr. REES of Kansas. Oh, no; it does not take away any constitutional rights. The gentleman from Michigan [Mr. LESINSKI] was among those in the committee who saw to it that all employees' rights were protected under this legislation.

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

Mr. REES of Kansas. In just a moment. I would like to finish my statement. As I said a moment ago, there might be those who think that this legislation is not strong enough and there are probably others who think it is too strong as it appears at the moment, but, after all, in my opinion, this law ought to be strengthened, not weakened.

There may be those who say we should await further consideration of the Wright Commission report on Government security which was submitted to Congress on June 21, 1957, a little over a year ago. They are all misinformed.

This bill will put into effect most of the recommendations made by the Wright Commission as they relate to Federal employees' security. This Commission was appointed by the President and produced a study covering nearly 1,000 pages in this area.

Mr. Wright, Chairman of the Commission, appeared before our committee, and while he testified he favored specifically the bill recommended by his Commission—and as the chairman of our committee has pointed out, this covers the jurisdiction of a number of other committees—he stated as follows:

> It is a tragedy, indeed, that we need any loyalty or security programs, and I fervently hope that the day will hasten when we can abolish them. Until that day, however, we dare not forget that the threat is not only real but formidable.

As the chairman of our committee has indicated, we have not yet received the executive departments' reports on the rather voluminous study made by the Wright Commission. I believe it would be helpful for the House to have restated here the comments of Mr. Wright under these circumstances when he was asked about legislation such as we are considering today. I quote from the hearings:

> Mr. Chairman, as an individual citizen, if I might be privileged to endorse that bill, H. R. 981, I think it is imperative that we have some stopgap legislation.

Mr. Chairman, I submit that the Congress has waited too long to act on this problem. I believe the security of our Nation is being jeopardized by failure to act. I think that the overwhelming majority of civil-service employees are entitled to protection against those who might infiltrate their ranks, who are security risks. The legislation which has been approved by the committee represents years of diligent study and it is the best legislation that could be enacted under the circumstances created by the Cole decision. Mr. Chairman, I urge the Members of the House to approve this legislation. I hope it will become law during this session of Congress.

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

Mr. REES of Kansas. I yield to the gentleman from Illinois.

Mr. YATES. Will the gentleman tell us what he means by the term "security risk" as he used it in his statement?

Mr. REES of Kansas. I realize there may be implications, but, nevertheless, any person is a security risk who says or does anything that might injure the security of the Government of the United States of America.

Mr. YATES. What form would this take? I would assume a person who is disloyal would be a security risk. A subversive would be a security risk. Are there other actions which would designate a person as a security risk, in the gentleman's opinion?

Mr. REES of Kansas. Any action by an individual employed by the Government would make him a security risk if it jeopardized the United States Government.

Mr. YATES. Does the gentleman intend to limit the term "security risk" to those cases of employees who are disloyal or subversive?

Mr. REES of Kansas. It may or may not. It applies to any action that jeopardizes the Federal Government.

Mr. YATES. Can this take another form that a form of disloyalty or subversion, in the gentleman's opinion?

Mr. REES of Kansas. No.

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

Mr. REES of Kansas. I yield to the gentleman from New York, who has given this matter a lot of study and helped write this bill, as I remember.

Mr. SANTANGELO. Does the gentleman know whether or not any Communist or any person belonging to a Communist action organization or a Communist front organization has been appointed to any Federal job since the Cole against Young decision?

Mr. REES of Kansas. I am unable to answer the question as to whether such people have recently been employed. I can say there are 40 or 50 presently employed known to be security risks.

Mr. SANTANGELO. Does not the Hatch Act and also the act of 1950, Public Law 831, disqualify anybody who has been connected with the Communist Party or a Communist front organization or Communist action, and does he not thereby, because of his association or membership with such organization, forfeit his job?

Mr. JOHANSEN. Mr. Chairman, will the gentleman yield right there?

Mr. REES of Kansas. I yield.

Mr. JOHANSEN. Is not the point of this proposed legislation the reestablishment of the right to suspend in case it is believed that the national security is involved?

Mr. REES of Kansas. That is correct. Public Law 831 applies to known Communists.

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

Mr. REES of Kansas. I yield.

Mr. SANTANGELO. This bill is only aimed at getting rid of those people who belong to a Communist front organization, Communist action organization, or who are members of the Communist Party.

Mr. REES of Kansas. Or loyalty risks. Or security risks.

Mr. SANTANGELO. It is a fact, is it not, as the gentleman from California [Mr. HOLIFIELD] has pointed out, that there are statutes presently on the books which authorize the Attorney General to disqualify these persons, and you do not need this particular legislation?

Mr. REES of Kansas. I do not agree with that statement at all.

Mr. JOHANSEN. Mr. Chairman, if the gentleman will yield further, whether that is true or not, is it not still essential that the right of suspension be restored in case there is a security risk?

Mr. REES of Kansas. That is a fair statement.

Mr. YATES. Mr. Chairman, will the gentleman yield on this point that the gentleman raised?

Mr. REES of Kansas. I yield.

Mr. YATES. Mr. Chairman, I spoke to the Civil Service Commission immediately before this bill came to the floor, and I asked them whether under present procedures, under the charge of unsuitability, a person could be suspended immediately, and I was told that he could be suspended immediately by the agency and that the question of loyalty is considered to be a part of the point of suitability. That is what I was told by the Civil Service Commission.

Mr. REES of Kansas. The fact remains that many of them are still on the payroll and they ought to be off the payroll for the protection of our Government and for the protection of more than 2 million loyal employees in our Government.

Mr. YATES. I would agree with the gentleman that that is true, and I do not know why the agencies are not doing it if it is on the books. The fact remains that they have the laws on the books now with which to do it.

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

Mr. MURRAY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. PORTER].

Mr. PORTER. Mr. Chairman, this is, in my opinion, an unnecessary bill. The title of it is a misnomer. It says "relating to the suspension of employment of civilian personnel of the United States." The original Senate bill did so provide. This, of course, is something else again. No one is against security. No one wants Communists to be employed. But there are laws, as the gentleman from California [Mr. HOLIFIELD] has pointed out, to see that Communists are not employed—two separate laws, both of which are cited in the minority report and which the gentleman from California cited here today.

Now, when this matter came before us it was said that there was a great emergency. You notice the committee report is dated August 20 last year. Now it is July 10, 1958, and has there been any emergency? Not a word of this has been heard before our committee, nor have I, who have been very much interested in this bill, heard anything about the great difficulties the Government is having because this legislation was not enacted. There is no emergency. And also, if you will read the report, you will find that it was supposed to be limited in time. Several people are cited as saying that this is just interim legislation, for the time being, and here it is coming up today to change the law of the land permanently.

Here is the trouble about it. "Any department head can, in his absolute discretion—page 2—and when deemed necessary in the interest of national security, suspend, without pay." He has that power, then, in his absolute discretion, to suspend. On what ground? Who decides what ground? Was he reading the wrong magazine? Did he wear the wrong tie? Nobody knows. No standard set up at all.

No standards at all are set up. There is no due process of law in the hearing. Everybody agrees, and the majority report cites two different committee reports of this Congress and the preceeding Congress, that people do not know the difference between a security risk and a loyalty risk. They tend to think of them as the same. In this case, if you get fired or suspended as a security risk you cannot explain it to your children or to your friends or to prospective employers, what the difference is. And yet you are denominated a security risk without due process of law.

Mr. Chairman, you never have had a chance to face your accusers. You never have had a chance to save your reputation by the very well established procedures of our law.

Mr. Chairman, I am going to propose such an amendment in due course, but I just point out to you now that this bill does not provide due process. There are no standards of what a security risk is. There is no danger; there is no pressure for this. Nobody has shown us that there is a necessity for such a law which would give every agency head unbridled discretion to decide whom to suspend.

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

Mr. MURRAY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HOLIFIELD].

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

Mr. HOLIFIELD. Mr. Chairman, I appreciate the Chairman's yielding me 3 minutes. I know the time is short and I know that is as much time as can be allowed. However, it does not give sufficient time to explain all the points in this bill which I think need explaining, and I shall try to avail myself of the opportunity under the 5-minute rule to do the job more completely.

In the first place, I want to say that I hold no criticism of the members of the committee who are concerned with this problem. I certainly cannot agree with some of them.

There are two laws on the books at this time, Public Law 831, known as the Subversive Activities Control Act of 1950, which provides that it is unlawful for anyone to accept employment with the United States Government who is a member of a Communist, a Communist-front, or any type of organization that has been declared to be subversive. There is also the Hatch Act, Public Law 252 of the 76th Congress, 1939, section 9 (a) (1), which makes it unlawful for any person employed in any capacity by any agency of the Federal Government to have membership in any political party which advocates the overthrow of the constitutional form of government to have employment with the Federal Government.

So you have two laws. I say that in the report before us you do not have the cases to prove the need of this particular type of law. The cases that are cited are of known Communists and they are quoted as examples of 17 cases, 12 of whom are still with the Government. If this be true, if these charges be true, then they should proceed under Public Law 831 or Public Law 252 to remove these people from the rolls. I would be heartily in favor of such action.

But this is a bill that is not written for the purpose of getting rid of Communists. This goes further than that. It goes into vague and uncertain areas of loyalty, of national safety, of the welfare of the United States Government and the field of administrative decision and discretion becomes so wide that the 2 million employees of the Federal Government come under the shadow of a law which has no clear-cut criterion or standard by which to judge their activities. Therefore, they come under the danger of whimsical removal from office. This is a dangerous bill and should be defeated.

The CHAIRMAN. The time of the gentleman from California [Mr. HOLIFIELD] has expired.

Mr. MURRAY. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. DAVIS].

(Mr. DAVIS of Georgia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Georgia. Mr. Chairman, in my judgment this is necessary and needed legislation. It is not legislation which was proposed and brought out of our committee without good reason. It was not proposed until the decision of the Supreme Court in the case of Cole against Young disrupted the law as everyone understood it and made it necessary to present legislation to correct that decision, which changed the law under which we had been operating, and read into an act of Congress meaning which was not there.

Some of the gentleman who have spoken in opposition to this bill have complained that it will authorize every agency in its discretion and when it deems it within the interest of national security to suspend without pay any employee, and so forth. That is not new law; that is on the statute books now. It is a part of the language of Public Law 733 of the 81st Congress, approved August 26, 1950. It is already on the statute books and applies now to some 400,000 Federal civilian employees in the various departments which are named in Public Law 733 of the 81st Congress.

Some objection was voiced, or implied, at least, by the gentleman from Illinois [Mr. YATES]. He wanted to know if employees would be denied the right to carry the case to court after the Civil Service Commission on appeal had entered a final order.

I can place the gentleman's mind at rest on that because that same language is included in Public Law 733 of the 81st Congress. It states:

> Such determination by the agency head concerned shall be conclusive and final.

Under that language Cole carried his case to court. It wound up in the Supreme Court, and the Supreme Court reversed the action. That decision is the reason why this bill now is here.

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

Mr. DAVIS of Georgia. I yield to the gentleman from New York.

Mr. SANTANGELO. If a member of the Civil Service Commission files a dissenting opinion as to the facts, are the facts conclusive and binding upon the petitioner or employee who seeks to challenge the decision of the Civil Service Commission?

Mr. DAVIS of Georgia. I would not like to answer that question off the cuff here. I would want to study the question before answering it.

I thoroughly agree with the statement that was made by the chairman of our committee [Mr. MURRAY] and I agree with the statement which has been made by the distinguished gentleman from Kansas [Mr. REES]. This is good legislation, it is due, and it should be enacted.

Mr. REES of Kansas. I yield 2 minutes to the gentleman from Iowa [Mr. GROSS].

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

Mr. GROSS. Mr. Chairman, I voted for this bill in committee and I expect to vote for it on final passage, but I am concerned about one word that appears

on page 2 of the bill, line 9, the word "welfare." The bill reads:

> The interests of the national safety, security, and welfare permit.

"Welfare," it seems to me, is open to wide interpretation. Will the gentleman from Tennessee accept an amendment to strike out the word "welfare"?

Mr. MURRAY. I will refer that to the gentleman from California [Mr. ROOSEVELT].

Mr. ROOSEVELT. I will say to the gentleman from Iowa, I have already conferred with the chairman of the committee and the original proposer of the legislation, the gentleman from Pennsylvania [Mr. WALTER] and brought out what the gentleman has just called attention to. In reviewing the matter, it was not in the original law and the chairman of the committee and the gentleman from Pennsylvania are in agreement that it should be taken out, and I have an amendment at the desk to take out the word.

Mr. GROSS. Mr. Chairman, I yield back the balance of my time.

Mr. REES of Kansas. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. DENNISON].

Mr. DENNISON. Mr. Chairman, it has only been 2 years since that decision was reached in the case of Cole versus Young. A bill was brought up in the 84th session of the Congress along the same lines as this, but it never got through and this particular measure came out of the House Committee on the Post Office and Civil Service last August, August 1957. No action was taken thereon until today. I would like to ask the distinguished gentleman from Tennessee, chairman of the committee, a question. On page 25 of the hearings, the chairman stated:

> I think by all means this Congress should act upon the bill introduced by Representative WALTER, H. R. 981, as a stopgap or temporary measure to take care of the security situation until the bill can be acted upon by the Congress.

The chairman was referring at that time to the bill incorporating the recommendations of the Wright Commission. I would like to ask the chairman whether or not it is contemplated that this is a stopgap measure or weather it is permanent legislation, and, secondly, whether or not the chairman contemplates hearings at any time in the future in connection with the Wright Commission recommendations.

Mr. MURRAY. As the gentleman knows, before the Wright Commission report was sent to our committee, I introduced a bill embodying the recommendations of the Wright Commission and likewise the ranking minority member, Mr. REES, also introduced a similar bill. Then the gentleman from Pennslyvania [Mr. WALTER] introduced H. R. 981, a stopgap measure. Our committee has been unable to receive a report from the administration on the Wright Commission report. The Wright Commission report is a very voluminous one and there are probably different features contained in it.

Mr. DENNISON. Do I understand that the Committee on Post Office and Civil Service will consider the Wright Commission recommendations at such time as they do receive a report from the executive department?

Mr. MURRAY. Certainly, the committee will.

Mr. DENNISON. The reason I say that is this. I have in my hand a letter from the Acting Assisting Attorney General, J. Walter Yeagley. I do not have the time to read it all, but referring to the fact that the Wright Commission report was submitted to them for approval he says:

> Under these circumstances, the Department of Justice believes that the interests of the individual employee as well as of the Government would best be served by deferring any legislative action relating to this program until the executive branch has completed its study of the recommendations of the Commission on Government Security—

Which is the Wright Commission report.

Mr. MURRAY. I might say that this information was given to them over a year ago and they have not reported on it yet.

Mr. REES of Kansas. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. JOHANSEN].

Mr. JOHANSEN. Mr. Chairman, I rise in support of this legislation. I should like to point out that the purpose of this legislation is to provide for a lack created by the Cole decision, to provide for the opportunity of summary suspension in those instances in which the national security and the Nation interest, and the interest of the national safety require it. The argument has been advanced here that there is no need for this legislation because there is existing legislation that copes with the situation. I point to the record as brought out on page 4 of the committee report, and to the fact that in the case of the four postal employees in the New York post office who were members of the Communist Party, they have been restored to duty as a result of the Cole decision. I have talked with the counsel of the Post Office Department and I am advised that they were proceeded against under this act because the only other available legislation requires not the proof of membership in the party, but requires the proof of an overt, disloyal act, a matter susceptible of proof only under the most extraordinary circumstances and a matter exceedingly difficult to establish.

Now, if there is existing legislation to deal with this situation and if the allegation is that this proposal only duplicates that legislation, I would rather have two guards at the gate of national security, even though it involved duplication, than to have one guard assigned there who was inadequate to the task.

I hope that the committee will support the legislation and that the House will adopt it.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. JOHANSEN] has expired.

Mr. MURRAY of Tennessee. Mr. Chairman, I have only one other speaker.

Mr. REES of Kansas. Mr. Chairman, I yield the remainder of the time, 1½ minutes, to the gentleman from Ohio [Mr. HENDERSON].

Mr. HENDERSON. Mr. Chairman, I rise in support of this legislation. I wish to commend to the committee the statement that has been made by the chairman of the committee and by the ranking member as well. I think there is probably nothing that causes the temperature of the people of this great country to rise as much as the Federal Government's inability to cope with its own problems, particularly in connection with the employment of persons who are deemed to be disloyal to our Government. This ridiculous situation has done more than anything else to cause the electorate to have misgivings about the Government's ability to handle its own affairs. I believe the enactment of this legislation will meet with considerable approval by the people back home who have been looking with considerable disgust at our inability to cope with the situation.

I would like to call to the attention of the Members a letter which is contained in the report on pages 16 and 17, written by our colleague from Pennsylvania [Mr. WALTER] in which he sets forth in as fine detail as could be written the reasons why this legislation is necessary.

If there is anywhere that loyalty, allegiance, and devotion to country should have meaning it should be in the field of Federal employment. I cannot fathom the thinking of those whose hearts bleed for disloyalty.

This Congress made its legislative decision in this field some years ago when it enacted Public Law 733. The Supreme Court in the Cole case restricted the application of our enactment to sensitive jobs only, saying that employment in nonsensitive jobs was not encompassed.

I do not see the difference between sensitive and nonsensitive positions when it comes to having Communists and disloyal persons. Federal employment should be a privilege reserved only to those who are loyal and devoted to their employer, the United States of America. I ask my colleagues to join me in supporting this important bill.

Mr. MURRAY of Tennessee. Mr. Chairman, I yield the balance of the time, 10 minutes, to the gentleman from Pennsylvania [Mr. WALTER].

Mr. WALTER. Mr. Chairman, several years ago, in making a study of this very difficult question, a Commission known as the Wright Commission was appointed. It so happens that I was a member of that Commission. I think I might call your attention to the names of the other members.

From the House, in addition to myself, was the Honorable WILLIAM MCCULLOCH, of Ohio; from the Senate there was Senator COTTON, of New Hampshire, and Senator STENNIS, of Mississippi. The executive branch was represented by Mr. McConihe, Commissioner of Public Buildings. Also, Louis S. Rothschild, Under Secretary, Department of Commerce. From private life two very prominent citizens: Franklin Murphy, chancellor of the University of Kansas;

Dr. Susan Reilly, professor of health, George Peabody College for Teachers. The President of the United States appointed Hon. James McGranery, former United States Attorney General; Hon. Edwin Mechem, Governor of New Mexico; and Hon. James L. Newell, Jr., attorney at law, of Texas.

This commission spent a great deal of time and study aided by the best staff that could be selected, in an attempt to set up the kind of procedures necessary in order to protect the security of the United States; and, as has been stated here today, the commission recommended legislation which was introduced in both bodies.

But no report has yet been received, and it is entirely understandable, because the recommendations of the commission were very comprehensive. But in the interim it was felt that this stopgap legislation was necessary because the Supreme Court of the United States very definitely invaded the legislative field.

We have for a long while criticized the Supreme Court, and every time that great body writes a decision that looks like legislation we say a great deal about it, but nobody ever does anything about it. It certainly seems to me that it ill behooves any Member of this body to criticize the decisions of the Court and then stand idly by and do nothing about it.

It seems to me that the arguments that are made here today are all made in support of a bill which, in my judgment, is still the law. It ought to be the law. I say that for this reason, that when we wrote the original act, section 1 applied to any civilian officer or employee in certain agencies which were named; and the third section of the bill provided that the President of the United States may under the authority vested in him by article I of the Constitution, I think it is, promulgate an Executive order covering any other employee. Acting in accordance with the authority thus given the President of the United States he issued this order embracing the Department of Health, Education, and Welfare.

In the law we passed we did not say anything about a sensitive position; those words are not in the law. We provided that this statute should apply to any employee in the enumerated agencies, any employee. Now, Cole was an employee in the Department of Health, Education, and Welfare. Cole was a Communist. Cole was fired.

In answer to the question of my distinguished friend from Illinois about going into court, I think the best answer to that is that Mr. Cole took his case to the Supreme Court of the United States, and it would certainly seem to me that under this law there is ample provision to go into the courts; else, how did he get there? That is the answer to the question of whether or not there can be judicial review of this decision.

The Supreme Court in examining the appeal found that Mr. Cole's position was nonsensitive. Then they said that he could not be fired, or could not be discharged, or could not be separated from his employment because he was not in a sensitive position. I wish I had the time to read to you a decision by a great jurist, Justice Learned Hand, in discussing this question of judicial legislation. If you have not seen it, look at it. I put it in the RECORD a long while ago. It seems to me we are very derelict in our duty if we do not do everything within our power to uphold the prerogatives of this great body.

The Supreme Court very definitely legislated by reenacting this legislation. You will say to the Supreme Court: "Look for the legislative intent."

I direct my remarks to those of you who are members of the legal profession. Have you not always felt that the Court looked to legislative intent when there was some doubt in the Court's mind as to what was intended? If the Court did, then I say to you it would have found the statement made by the gentleman from California [Mr. HOLIFIELD], who is opposing this legislation, when he said on the floor of the House:

> This act applies potentially to every executive agency, not only the sensitive ones.

So it seems to me that if the Supreme Court had looked at the language of the gentleman from California, they certainly could not in good conscience have found this man should not be discharged because his position was not sensitive.

Ultimately when the reports come from the Departments there will be a comprehensive measure prepared. There will be a measure presented in accordance with the recommendations made by this Commission. But pending such time and in the interest of the security of this great Republic I ask you to reenact the legislation which the Supreme Court repealed in toto.

The CHAIRMAN. All time having expired, the Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That section 1 of the act of August 26, 1950 (64 Stat. 476; 5 U. S. C. 22–1) is amended by changing the period at the end thereof to a colon, and by adding the following further proviso: "*Provided further,* That nothing in this section shall be deemed to require the suspension of any civilian officer or employee prior to hearing or termination."

With the following committee amendment:

Strike out all after the enacting clause and insert "That the act of August 26, 1950, chapter 803 (64 Stat. 476), is hereby amended to read as follows: 'That, notwithstanding the provisions of section 6 of the act of August 24, 1912 (37 Stat. 555), as amended (5 U. S. C. 652), or the provisions of any other law, the head of any department or agency of the United States Government may, in his absolute discretion and when deemed necessary in the interest of national security, suspend, without pay, any civilian officer or employee of the Government. To the extent that such agency head determines that the interests of the national safety, security, and welfare permit, the employee concerned shall be notified of the reasons for his suspension and within 30 days after such notification any such person shall have an opportunity to submit any statements or affidavits to the official designated by the head of the agency concerned to show why he should be reinstated or restored to duty. The agency head concerned may, following such investigation and review as he deems necessary, terminate the employment of such suspended civilian officer or employee whenever he shall determine such termination necessary or advisable in the interest of the national security of the United States: *Provided,* That any employee having a permanent or indefinite appointment, and having completed his probationary or trial period, who is a citizen of the United States whose employment is suspended under the authority of this act, shall be given after his suspension and before his employment is terminated under the authority of this act, (1) a written statement within 30 days after his suspension of the charges against him, which shall be subject to amendment within 30 days thereafter and which shall be stated as specifically as security considerations permit; (2) an opportunity within 30 days thereafter (plus an additional 30 days if the charges are amended) to answer such charges and to submit affidavits; (3) a hearing, at the employee's request, by a duly constituted agency authority for this purpose; (4) a review of his case by the agency head, or some official designated by him, before a decision adverse to the employee is made final; and (5) a written statement of the decision of the agency head: *Provided further,* That any person whose employment is so suspended or terminated under the authority of this act may, in the discretion of the agency head concerned, be reinstated or restored to duty, and if reinstated or restored, by action of the agency head under this proviso or pursuant to determination and decision of the Civil Service Commission under section 4, shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate and the interim net earnings of such person: *Provided further,* That nothing contained in this act shall be deemed to require the suspension of any civilian officer or employee prior to hearing or termination: *Provided further,* That to the extent consistent with the interest of the national security in the light of the facts and circumstances of the particular case, the department or agency head concerned shall utilize, in lieu of other provisions of this act or any Executive order issued under this act, the provisions of section 6 of the act of August 24, 1912 (Public Law 623, 83d Cong.), and section 14 of the Veterans' Preference Act of 1944 in connection with the suspension or termination of employment of any civilian officer or employee.

"'SEC. 2. Nothing contained in this act shall impair the powers vested in the Atomic Energy Commission by the Atomic Energy Act of 1954 or the requirements of section 161 of such act that adequate provision be made for administrative review of any determination to dismiss any employee of such Commission.

"'SEC. 3. As used in this act, "national security" means all governmental activities of the United States Government involving the national safety and security, including but not limited to activities concerned with the protection of the United States from internal subversion or foreign aggression. All employees of any department or agency of the United States Government are deemed to be employed in an activity of the Government involving national security.

"'SEC. 4. It shall be the duty of the United States Civil Service Commission, upon the request of any employee, to review the decision, under this act and under any Executive order issued pursuant to this act, of the agency head concerned in the case of

such employee with respect to the validity and truth of the charges made and with respect to the procedures followed. The Commission shall prepare a written opinion and decision in each such case containing its recommendations with respect to the decision of the agency head. The Commission shall transmit its opinion and decision to the agency head concerned for action in accordance therewith. The determination by the Commission of any question or other matter connected with such review shall be final and conclusive. If any member of the Commission does not concur in such opinion and decision, he may file a dissenting opinion.'"

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the committee amendment.

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

Mr. HOLIFIELD. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

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

There was no objection.

Mr. HOLIFIELD. Mr. Chairman, in my opinion, this bill is not a wise bill to pass. The gentleman from Pennsylvania quoted my interpretation of the original Act when I said that I thought it applied to all of the agencies of Government.

I happened to be in agreement with him. I did not think that the Supreme Court took into consideration the legislative history of the act and, therefore, I happened to be in agreement with him that the Supreme Court did not follow the legislative history. That does not change my position which in 1950 was against this type of legislation and which is against it today.

The reason I am against this type of legislation is that it broadens by an uncertain criteria the standard of loyalty by which an employee is judged. It uses phrases such as "welfare" and "national safety" and "security", these words have no clear legislative intent or determination. The area of judgment for an administrative head of an agency to suspend Federal employees is too wide. Under the legislation which exists and which the Supreme Court ruled upon, the discharge of an individual had to be on the ground of national security. In other words, he had to be occupying a sensitive position.

Now listen to the language in section 3 as follows:

All employees of any department or agency of the United States Government are deemed to be employed in an activity of the Government involving national security.

These words broaden the sensitive classification of the employees from the some 450,000 which Judge Davis mentioned in his discourse to another 1,920,000 employees in the United States Government.

Now, no one believes that a Communist or a person who is of a subversive nature should enjoy Federal employment. Certainly I do not believe that.

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

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

Mr. WALTER. I would like to point out to the gentleman that there are about 52 employees in that category, that is, occupying nonsensitive positions, in the employ of the Post Office Department.

Mr. HOLIFIELD. Well, I think I can answer this to the gentleman's satisfaction. Public Law 831, which was known as the Subversive Activities Control Act, title I, section 5 (1) (b), says that it is unlawful for any Communist or member of a Communist-front organization or subversive group to hold—and I quote, "to hold"—any nonelected office or employment in the United States Government. Now, this is one act that is already on the books, where the Government could proceed under that procedure and remove them. There is also another act, Public Law 252, passed by the 76th Congress in 1939. Section 9 (a) says that it is unlawful for any person employed in any capacity by any agency of the Federal Government—and it goes on with some other language—to have membership in any political party which advocates the overthrow of the constitutional form of government of the United States. And section 9 (a) (2) provides for the immediate removal, immediate discharge, of that person.

So because the Government agency did not proceed under laws which are on the books, which clearly gave them the right to discharge these people, does not mean that you should put another law on the books that is so much wider in its impact upon the employees of the Government that it makes every employee subject to the wide discretion of any agency head of Government.

Now, I want to point out some of the vague language or some language which I think is bad in the act. On page 2 it says "The head of any department or agency of the United States Government may, in his absolute discretion and when deemed necessary in the interest of national security, suspend, without pay, any civilian officer or employee of the Government." Then it goes on to say—and I want you to listen to the language—"To the extent that such agency head determines that the interests of the national safety, security, and welfare permit"—and I understand "welfare" will be knocked out—"the employee concerned shall be notified"—in other words, if the agency head wants to notify him, if he considers that it is necessary or it is advisable or desirable to notify him of the charges against him, he can so do, but if he does not consider it necessary, he does not have to. This gives no guaranty that the employee will be confronted with definite charges.

Then we go down to line 15. "The agency head concerned may, following such investigation and review as he deems necessary"—placing it completely upon the discretion of the agency head as to the type of review he gives and then he can—"terminate the employment."

Then we go over to the so-called appeal provision on page 3, and on line 8, I call your attention to this language "(3) A hearing, at the employee's request, by a duly constituted agency authorized for this purpose." In other words, the man that fires him appoints an "agency authority" within the agency and this man can go to that agency authority within the agency, all appointees of the head of the agency, for his appeal. Then, after that is over, we find this language "(4) A review of his case by the agency head or some official designated by him." This is your right of appeal. This gives the man the right to go to the man that fired him and appeal his case or to appeal to a man that the agency head designates. Or he goes first to an agency authority appointed by the man who fired him for his first appeal.

I have already given you section 3 which puts all Government employees in the sensitive class, or the so-called sensitive class; whether the individual digs a ditch out in the forest, or whatever he does. If his employer deems it necessary that he be fired, he may be fired.

Again, going down to section 4—and this applies to those who have civil service status—this man is entitled to go to the Civil Service Commission and appeal his discharge. But on what basis? On the basis of the validity of the truth of the charges. If the head of the agency makes a charge against him and it happens to be true, although it may be of other things than being a member of the Communist Party—then only the validity of the charge is in issue. This language goes far beyond being a member of the Communist Party—he may only appeal with respect to the procedures followed and to the truth of the charges; not the merit of the charges, as to whether he should be fired or not on merit, but whether the charge that was made was a true charge and whether the procedures were followed as set up in this bill. This is the dangerous part of the bill. In other words, he gets no decision on merit. It is similar to the Administrative Procedures Act under which act, if an agency head handles the case, the evidence brought under that Administrative Procedures Act is only allowed in the court case which follows. The case is not decided upon the merits of the case itself. It is decided upon the evidence produced in the administrative procedures case.

And so here you have again certain charges brought. They may be true or false. But if they are true, and even if they are not charges that he is a Communist or a subversive, they may still be true, a man may only appeal his case on the basis of the procedures and the truth of the charges made.

This is a far cry from the condition in which Cole found himself under the old act. Cole had the right to go before the court on the merits of the case. But in my opinion—and I am not a lawyer, and maybe I am treading on dangerous ground, and if I am treading on dangerous ground, undoubtedly some gentleman of the bar will expose my fallacy in this regard—but I say that the procedures and the charges may be true, the man does not have to be a Communist or a subversive and still he cannot take the extraneous matter beyond the administrative record into the courts to be tried on its merits.

There are laws on the books to take care of Communists and subversives. I would like to say a word about the cost. It costs $692 for each clearance that an employee of the Government receives, and if you are going to use the FBI on any procedures involving 1,920,000 people, you can see what that cost would be.

Mr. Chairman, I will ask for unanimous consent in the House to place after my present remarks a quotation from that great defender of civil rights, the great Chief Justice Oliver Wendell Holmes.

FREEDOM OF IDEAS

When men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desire is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution. It is an experiment, as all life is an experiment. Every year if not every day we have to wager our salvation upon some prophecy based upon imperfect knowledge. While that experiment is part of our system I think that we should be eternally viligant against attempts to check the expressions of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country.

OLIVER WENDELL HOLMES.

The CHAIRMAN. The time of the gentleman from California [Mr. HOLIFIELD] has expired.

Mr. ROOSEVELT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROOSEVELT: Page 2, line 9, after the word "security" strike out the words "and welfare" and insert the word "and" between the words "safety, security", eliminating the comma.

Mr. ROOSEVELT. This is the matter referred to in the colloquy with the gentleman from Iowa [Mr. GROSS] a few minutes ago. I would simply like to say that I have cleared with the chairman of the committee and with the distinguished author of the amendment, Mr. WALTER, of Pennsylvania, and in the opinion I think of both those gentlemen these words are not necessary and their use could lead to some trouble and misinterpretation.

The bill refers to the national security and safety, and the matter of welfare could well be a matter which has nothing to do with either the security or the safety of the Nation, inasmuch as it is not in the original act in any way, shape, or form.

I trust that the committee will accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROOSEVELT] to the committee amendment.

The amendment to the committee amendment was agreed to.

Mr. PORTER. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. PORTER, of Oregon, to the committee amendment: On page 3, line 8, after the word "hearing," insert "conducted in accordance with due process of law, and."

Mr. PORTER. Mr. Chairman, what my amendment provides for is simple justice for people who are accused of being security risks. As I pointed out and as I think everyone here recognizes, there is no clear distinction in the minds of most people between a person who is called a security risk and one who is called a loyalty risk. This simply provides that the procedures in this bill will be conducted in accordance with due process of law, which, of course, has a definite legal meaning and would mean that before a person is denominated a security risk he would have the traditional due process of law.

I certainly agree with everything my colleague from California [Mr. HOLIFIELD] said. May I add that the people back home, and this was mentioned earlier, especially the very capable, conscientious, and energetic members of the League of Women Voters, did not like this legislation when they had a chance to look at it, and the league has looked at it. So I suggest to the Members here who have not been in touch with the people back home about this legislation that they consider that the very capable League of Women Voters is opposed to this legislation because it does not provide for proper due process of law.

The Civil Service Commission certainly is no judge in this matter, yet as it is now it will get a record which is not prepared by due process of law, and the bill provides the Commission will be the judge. Certainly that is a regrettable part of it.

However, the main thing is that there is no emergency; there is no need for this legislation. There is no manifestation of a great need. It has been sleeping since the past August 20, and we have not had anybody come to our committee, nor has there been any outcry at all that we needed this legislation.

Further, this legislation does not provide for greater security. I ask you to put yourself in the place of an employee of the United States. Your agency head decides he does not like you. He can without more ado just find some pretext. I do not think many agency heads would do this, but they can do it if this becomes law. As the gentleman from California [Mr. HOLIFIELD] described, he can go through the whole procedure completely untouched by any safeguards that really protect the employee.

This to me ought to stop many people here from being too hasty in voting for this legislation. The legislation does not provide for greater security for the Nation. We have laws on the books that take care of that.

Mr. MURRAY. If the gentleman will yield, we had this amendment before the committee and it was voted down.

Mr. PORTER. I offered this amendment before the committee and it was voted down. I opposed the bill in committee and was voted down. This may happen here today, but I have been heard.

Mr. JOHANSEN. Mr. Chairman, I rise to oppose the amendment to the committee amendment, and rise for the purpose of asking the gentleman from Oregon a question. It arises from the fact that a great many of our colleagues in the House, and I am one of them, are not lawyers, not members of the bar. I am very much interested in having a statement as to precisely what is meant in relation to this hearing by "due process of law." What does the term mean?

Mr. PORTER. I thank the gentleman from Michigan for asking me that question. It means that you will have the right to cross-examine the witnesses against you, know their names, face them, know the charges. It is provided in the bill that you will get to know the charges, although the charges can be anything because there are no criteria for the charges. The bill does provide that you get a written statement about what it is all about, and you get to answer, but it does not provide that you get to see the witnesses and cross-examine them. They can be these faceless accusers we have heard about.

Mr. JOHANSEN. May I ask the gentleman this further question: Does this due process to be required in the matter of a hearing before a departmental group require the disclosure of confidential FBI files?

Mr. PORTER. May I say also you have the right of counsel. There is the right to get information that is to bear against you, but the judge has the power, as has been pointed out by the courts before, to protect you.

Mr. JOHANSEN. The point is, as I understand it, this is a departmental hearing and if I understand the point to which this applies, it is item 3 on page 3; is that correct?

Mr. PORTER. It is item 3 on page 3.

Mr. JOHANSEN. The language on page 3, item 3, reads:

A hearing at the employee's request by duly constituted agency authority for this purpose.

Certainly, you are not going to give to the head of that agency authority the judicial right to determine whether there is to be a disclosure of FBI files.

Mr. PORTER. The gentleman will recall, there was a bill passed by the House last session against which 17 of us voted. The bill at that time did provide for certain protections which many of us thought were already in the law.

Mr. JOHANSEN. Do these protections that you relate to this specific procedure—it does not involve a judge?

Mr. PORTER. Oh—which do not involve a judge?

Mr. JOHANSEN. This procedure that you refer to on this amendment—to which the gentleman's amendment relates—does not involve a judge.

Mr. PORTER. There is, if the gentleman will note, on line 4 this language, "and which shall be stated as specifically as security considerations can permit." I will say this would require the production of evidence against the person so that he knows what he is charged with and what is against him.

Mr. JOHANSEN. I think the gentleman has adequately answered my question.

Mr. HEMPHILL. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I want to say to the Members of the House, I respect the sincerity of the gentleman from Oregon, Mr. PORTER, and the gentleman from California, Mr. HOLIFIELD, but this amendment was voted down in the committee, and should be voted down here: Here is what you have: We are setting up an administrative process by which these people who are discharged as security risks, as security risks and not for any other purpose, are given an opportunity to have the charges presented to them and to have a hearing. There is no way on earth to deprive a man of due process of law, but if the Porter amendment is written into this legislation, it will be a vehicle in which to impede the purposes of this legislation and with which to put some loopholes into the administrative procedures which this committee has outlined.

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

Mr. HEMPHILL. I yield.

Mr. GRIFFIN. In view of the form of this legislation, if amendments are adopted which would have the effect of providing additional loopholes, is it not true that those loopholes thereafter would be available to security risks in sensitive positions as well as to those in nonsensitive positions?

Mr. HEMPHILL. That is right.

Mr. GRIFFIN. Accordingly, we must be particularly careful not to weaken the legislation which now exists and now applies at least as far as employees in sensitive positions are concerned.

Mr. HEMPHILL. The gentleman is correct.

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

Mr. HEMPHILL. I yield.

Mr. YATES. May I refer the gentleman to the language on page 2, line 7, which reads as follows:

> To the extent that such agency head determines that the interests of the national safety, security, and welfare permit, the employee concerned shall be notified of the reasons for his suspension—

And so forth. Suppose the head of the agency decides that no information should be given to the employee as to why he is suspended. May he then under the terms of this bill not give any information for the suspension to the employee?

Mr. HEMPHILL. No; he has to give information, if the gentleman will read further down on the page.

Mr. YATES. May I ask the gentleman then, what does the phrase which I have just read mean?

Mr. HEMPHILL. It means at the time he suspends him, he may or may not give the information, but if the suspended employee demands it, as you will see written in the bill, he is to be given a written statement in 30 days, and he is to be given an opportunity within 30 days plus an additional 30 days to answer the charge. He is being given a hearing. That answers the gentleman's argument, because if he is given a hearing, he gets his chance to answer the charge at the hearing.

So do not let anybody tell you a man is not going to get a hearing if he asks for one, because we have written that into this legislation.

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

Mr. HEMPHILL. I yield.

Mr. HOLIFIELD. I think the gentleman's recent remark is right in the case of those who have received a civil-service status as is carried down from line 20 on, but on the part of those who have temporary appointments, they do not have that right.

Mr. HEMPHILL. I might say to the gentleman that I listened to his remarks a while ago. It is not possible under any statute to write into that statute a safeguard against any abuse of that statute. But we are trying in this legislation to answer all the demands and questions of the employees, that they be given some administrative procedures. Under the Constitution of these United States no one can deny them an appeal from an administrative decision to the courts of this land.

I might say also to the gentleman from California to his statement earlier about absolute discretion, the courts of this land have consistently held that when any administrative body abuses discretion, or the discretion is not based upon sound facts, one aggrieved may appeal, and the reviewing board or appellate court can reverse that decision.

Mr. MORANO. Will the gentleman yield?

Mr. HEMPHILL. I yield.

Mr. MORANO. Under the Constitution every person has a right of due process of law.

Mr. HEMPHILL. As a matter of fact, I think that is elementary.

Mr. MORANO. So there is no need for this amendment.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. HEMPHILL] has expired.

(By unanimous consent (at the request of Mr. HOLIFIELD) Mr. HEMPHILL was granted 3 additional minutes.)

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

Mr. HEMPHILL. I yield.

Mr. PORTER. My friend is a keen and conscientious lawyer, but I cannot believe that he is serious when he says there is no way to do away with due process of law. When there are people who do not have the money and they are wrong, the gentleman knows they do not have equal access to our courts.

Mr. HEMPHILL. The gentleman from Oregon also knows that if this Court across the way has attempted to repeal former legislation that this bill seeks to implement, and it has, if there was attempt to deprive one of due process of law, that same Court would hop on the phrase to misinterpret again. So, after much study, we have written this legislation as it should be written. When you talk about due process of law, it is something you cannot take away from an American. We do not want a phrase put into this legislation which would be subject to misinterpretation, like the clause in former legislation that causes us to come to the House today with this legislation.

Mr. HYDE. Will the gentleman yield?

Mr. HEMPHILL. I yield.

Mr. HYDE. Is it not true that the courts decided in the Bailey case that a person whose job was being jeopardized did not have the absolute right to cross-examine witnesses or confront the witnesses, and the other matters that form due process of law such as we have in the courts. Was that the decision in the Bailey case?

Mr. HEMPHILL. I am not so familiar with it. I think they did, on the ground that there was no absolute right to the job.

Mr. HYDE. Therefore, you had no right to be confronted with the witnesses or to cross-examine the witnesses.

Mr. HEMPHILL. Well, we have provided for hearings to take care of that situation.

Mr. Chairman and members of the Committee, this is good legislation, and we should not let this amendment ruin it. We need the legislation, and we need it now.

No Communist has a right to a job with our Government. No Communist has a right to enjoy all the privileges a Federal employee has, live off the tax money, and enjoy all the benefits, such as retirement, leave, and sick leave.

We are not hard enough on the Communists. They treat us harshly. They only respect the iron fist.

A vote for this legislation is a vote against communism. I am grateful for the opportunity to vote for the legislation.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. HEMPHILL] has again expired.

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

As stated by the gentleman from Pennsylvania [Mr. WALTER] this is a very sensitive piece of legislation. In considering it, we must keep in mind the American concepts of justice and fair play. There are 2 million and some Federal employees with whose fate we are dealing in this bill. I have had cases, as has every Member of Congress, of employees who have been suspended as security risks for one reason or another—not for reasons of disloyalty—and who found that they were unable to obtain employment in private industry as a result of their having been discharged as a security risk. There are so many things encompassed within the term "security risk," so many implications, and it becomes impossible for such a person to explain. Jobs in private industry are closed to him. The brand "security risk" blacklists him.

Therefore, it is important, if there is to be such legislation, that it be most seriously considered.

In voting for or against this bill, it is not a question whether we are voting for or against Communists or subversive agents. All of us in this House are opposed to communism. We are opposed to hiring or retaining in Federal employment those who are Communists or are

subversives. But there is much more to this piece of legislation than that. We are dealing with the economic lives of more than 2 million people. Let us be careful. Let us not be hasty. In our desire to deal with a particular problem, let us not make it worse.

That is why I think the statement made a few moments ago by the gentleman from Ohio [Mr. DENNISON] is of great importance, of great significance, the statement he read to this House from a letter he had received from the Attorney General's Office.

We are all interested in the viewpoint of the Department of Justice on this bill. The Department of Justice, after all, is primarily responsible for dealing with subversion in this country. Its opinion deserves our consideration. Listen to this: I read to the House a letter dated July 10, 1958, from J. Walter Yeagley, Acting Assistant Attorney General, to Hon. DAVID S. DENNISON, House of Representatives. I shall read the last paragraph first, because it contains the Department's recommendation.

In the first paragraph of the letter, the Department reviews the course of this legislation. Then it reviews its status following the Supreme Court decision. This is what the Department of Justice says about this bill:

Under these circumstances, the Department of Justice believes that the interests of the individual employee as well as of the Government—

The individual employee as well as of the Government, both—

would best be served by deferring any legislative action relating to this program until the executive branch has completed its study of the recommendations of the Commission on Government Security.

That has reference to the Wright Commission on the question of security.

Then they stated this:

This report contains extensive findings and recommendations relating to the Federal employee security program, study of which is presently nearing completion within the executive branch.

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

Mr. YATES. I yield.

Mr. MURRAY. What date is that?

Mr. YATES. July 10, 1958.

Mr. MURRAY. Today.

Mr. YATES. That is right—as recent as today. On the other hand, the recommendation of the Department in the committee report is 2 years old. This letter states the latest opinion, this is the latest viewpoint of the Department of Justice.

If the Department of Justice wanted this bill they would have told the committee that they wanted this bill. If the Civil Service Commission had wanted this bill they would have told the committee that they wanted the bill; and yet, if you will read the report, you will find in the last part of the report there was a tacit acceptance because of the pushing of the committee, if you please, of some kind of stopgap legislation.

What is the need for stopgap legislation? The Department of Justice says, "We are almost ready with the bill that we think should be enacted in the interests of the individual employee and of the Government." Why then should we in haste, why then should we without appropriate consideration, pass a piece of legislation as important as this one?

I believe this legislation should be sent back to committee to await the recommendation of the Department of Justice.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon.

The question was taken; and on a division (demanded by Mr. PORTER) there were—ayes 28, noes 125.

So the amendment was rejected.

Mrs. CHURCH. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time in order that the RECORD may be clear on one point. I believe that the gentleman from California, who, like many in the House, is seeking to make sure that there are no loopholes in this legislation which would do unnecessary damage while seeking to do good, made the point that on page 5, lines 7 and 8 there are significantly the words "with respect to the validity and truth of the charges."

I believe that the gentleman from California pointed out also that the question of the merits of the case would thus not be considered. I would like to ask the chairman of the committee whether in his opinion the words "with respect to the validity and truth of the charges" do not necessarily mean also that the merits of the charges will be considered by the Civil Service Commission?

Mr. MURRAY. Certainly the charges have to be valid and must have merit.

Mrs. CHURCH. The question of not only whether the charges are true and valid but whether they have merit and warrant suspension would be considered by the Commission?

Mr. MURRAY. Yes, of course.

Mrs. CHURCH. I am glad to have the RECORD show that.

Mr. HOLIFIELD. Mr. Chairman, will the gentlewoman yield?

Mrs. CHURCH. I yield to the gentleman from California.

Mr. HOLIFIELD. I wish to respectfully differ with the chairman in his interpretation. I may say to the gentlewoman from Illinois that under the Administrative Procedures Act only the information allowed by the trial examiner is permitted to be carried forward in an appeal to a court on the merits of the case itself. The examiners have a wide latitude to discard testimony within their own discretion as being pertinent or impertinent to the subject at hand. Therefore, there have been many cases where even the judge himself has admitted that the merit of the case was not considered but only the point as to whether the procedures under the law had been followed and the procedures under the Administrative Procedures Act had been followed. The merit of the case itself was never given consideration. If a charge is made that a man, for instance, was drinking whisky and this would affect the security of the United States, and it was found that he was drinking whisky, whether that fact affected the security of the United States would not be considered, in my opinion, on an appeal.

Mrs. CHURCH. I may say to the gentleman that my question arose because I understood that to be his interpretation. But I would like to think now that the expressed intent of the committee would mean that in the administration of the act the merits of each case would be always definitely considered by the Civil Service Commission, when the appeal comes before it.

Mr. JOHANSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. CHURCH. I yield to the gentleman from Michigan.

Mr. JOHANSEN. It is my understanding that the identical language is used in the Veterans Preference Act with respect to the validity and truth of the charges made and with respect to procedures and that in the hearing on those appeals they are heard virtually de novo. It is not a matter of procedural questions only but it is a matter of the merits of the case as well.

Mrs. CHURCH. In other words, the gentleman from Michigan agrees with the chairman of the committee, in connection with the words involved here, "validity and truth," that the merits of the charge will be considered as well as the validity and truth of the charge.

Certainly the legislation should contain such a safeguard.

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

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

Mr. Chairman, I would like to direct the attention of the Committee to several things. The hearings on this bill were conducted in July 1957, 1 year ago. The bill we are considering was passed by the other body August 8, 1957, 11 months ago. The report of the committee of this House on the bill that we are considering here now is dated August 20, 1957, 11 months ago. Yet, the report says this legislation is urgent. We have gotten along without it all this time. What is so urgent about it? I have not heard anybody indicate that our security has been impaired in the slightest during these 11 or 12 months.

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

Mr. MULTER. Gladly.

Mr. HOLIFIELD. The bill that passed the other body is the short paragraph on page 1 which has the lines drawn through it, not the bill that we have before us.

Mr. MULTER. The gentleman is quite correct.

Throughout the report the bill is referred to as one of a temporary nature; that you need this bill to fill a gap. On page 6 it says that "the committee agrees that this legislation should be temporary."

There is nothing temporary about the act which this bill seeks to amend. It is permanent legislation. There is nothing temporary about this bill. It is permanent legislation. There is nothing temporary about it.

Now, let me indicate what you do. The gentlewoman from Illinois can be right and the gentleman from California can be right, and if an aggrieved

party comes to court, the court will nevertheless say to the aggrieved party, "Despite the fact that these distinguished Members of our body are right, nevertheless there is nothing for the court to review."

The matter of review of the truth and validity and merits of the charges and the procedures to be followed are reviewable by whom? By the Civil Service Commission.

If you will, they can look at the ceiling and say "By the stars there we conclude that this proceeding was properly conducted and the man was guilty as charged," and then in its decision say "We find this man guilty as charged."

On page 5, line 14, it says, "The determination by the Commission of any question or other matter connected with such review shall be final and conclusive." No court can review that determination by the Civil Service Commission. It is nothing like the Cole case where they went in and attacked the constitutionality of the statute. And, the court said, "We do not have to consider the constitutionality of the statute because the Congress never legislated on this problem, never gave the agency the right to remove" and they never got to the constitutionality of the statute.

Now, what we have done here now, mind you, is this: No agency of our Federal Government, no bureau, no board, no department can have its decision reviewed unless you have statutory authority therefor, whether it be in the act which creates the board or authority or in the administrative procedures act. Then, the review is limited as stated by the statutes. Some statutes give you the right of review as to the weight of the evidence, some give you the right of review as to whether there was any evidence, and some give you the right of review only as to whether the procedure was followed as laid down. But, this statute now takes from every aggrieved employee who may be removed under it and whose removal is confirmed or affirmed by the Civil Service Commission—it takes from him the right to review anything except the constitutionality of this act. When you say here, as you do, that this Commission's determination of any question or other matter shall be final and conclusive, that is what it means, and you are depriving every court in the land of the right to review anything and everything that was done prior to what the Commission did and what the Commission will do in its review.

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

Mr. MULTER. Yes, I am happy to.

Mr. JOHANSEN. As I understand, the gentleman interprets the words "shall be conclusive and final" as barring any opportunity of judicial review.

Mr. MULTER. Of the proceedings and the procedure and the merits and the truth and the validity of the charges; yes, sir.

Mr. JOHANSEN. And yet I read those words, not from this bill, but from Public Law 733 under which, in the Cole case, an appeal was taken to the courts, even to the Supreme Court.

Mr. MULTER. And the Court held, not that they had a right to review what the agency did; but found that this law did not give the agency the right to remove the person for the reasons cited against the removed employee.

The CHAIRMAN. The time of the gentleman from New York [Mr. MULTER] has expired.

Mr. WIER. Mr. Chairman, I move to strike out the requisite number of words.

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

Mr. WIER. Mr. Chairman, I must make expression here of my opinion of this bill, because I think there is more opposition throughout the country to this particular proposed legislation than there is support for it.

I note here that every one of the Federal employees organizations—all of the postal and Federal and other organizations representing employees of the Federal Government, appeared before the committee in opposition to this bill.

In addition to that, many, many Members of this House, including myself, received many, many letters from the League of Women Voters, and I have great respect for that organization and I would like to heed their views in opposition.

Mr. Chairman, in connection with this bill, it covers every Federal employee. I think we are going a little too far. I think we have plenty of legislation on the statute books to take care of any so-called Communist peril.

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

Mr. WIER. I yield.

Mr. JOHANSEN. Would the gentleman feel that we have adequate legislation if, as the record shows, apparently, we have 4 Communists in the post office in New York City?

Mr. WIER. Mr. Chairman, let me say this to the gentleman. I do not think 4 Communists, working in a post office in these great United States, among 2 million Federal employees, represent any great menace or threat.

Mr. JOHANSEN. Mr. Chairman, the gentleman did not answer the question.

Mr. WIER. That is my feeling about it. Mr. Chairman, I should like to take the opportunity to refer to a story here by one of our former administrators of the so-called Security Act. That is ex-Senator Harry Cain, and I want to quote a statement made in this story which was written by Marquis Childs. This is a quotation from Cain's story, and is what President Eisenhower said to him when he received the appointment as one of the Administrators of the Federal Security Board in 1954:

> In this country if someone accuses you, he must confront you. He cannot assassinate you or your character from behind without suffering the penalties that an outraged citizenry will impose.

I believe that is very important, and well said by the President. I think that is the meat of the legislation. That statement is a quotation from the President of the United States. It is a clear indication of how this administration feels in the matter of protection against slander, against stool pigeons, against stooges and personal enemies who might report anyone as a security risk. We have had it in the Minneapolis post office—this kind of a situation where employees have been dismissed, not because of the question of being subversive or disloyal, but because somebody carried a report to an inspector. Even an inspector in the post office can level these charges, and you have no due process of law or no protection here, in my opinion.

Mr. Chairman, I want to close by saying that I cannot find my way clear to support this bill.

[From the Washington Post and Times Herald of January 21, 1955]

WHAT CAIN RAISED

(By Marquis Childs)

This capital is still reacting to the remarkable speech made the other day by former Senator Harry P. Cain of Washington in which he subjected the whole system of employee security in the Federal Government to the most searching scrutiny. He said in conclusion that if the security system had undermined confidence in the good faith of the American people, then a whole clique of spies could not do greater damage.

What made this speech so remarkable was that in the Senate Cain was one of the extremists linked with the McCarthy-Jenner-Welker trio. As he said in his address to Republicans at Spokane, he has come to a realization of the threat to freedom inherent in the present security system as a result of 2 years of sitting, listening, and thinking.

After his defeat for reelection in 1952, Cain was appointed by President Eisenhower to be a member of the Subversive Activities Control Board. This Board has responsibility for determining whether the Attorney General is correct in listing organizations as dominated, controlled, and directed by the Communist Party and therefore, subversive. The Board holds extensive hearings and it has generally been rated as conscientious and thorough.

What was not known when Cain made his speech was that he had conferred with White House officials about what he was going to say well in advance. This was in no sense to get approval of his proposed criticisms of the security system. But he wanted those most immediately concerned with the problem to know the line of reasoning he had reached.

Remembering Cain for his often wild-eyed statements about the Communist danger, the cynics were inclined to look for a political motive in the speech. But those close to Cain reject this cynical interpretation. They say that for many months he has been quietly discussing his doubts of the system now in force and the injustices it has caused. They believe this has been a genuine process of soul-searching by one who has been observing the loyalty-security operation at first hand.

Cain quoted President Eisenhower's statement of more than a year ago as follows:

> "In this country if someone accuses you, he must confront you; he cannot assassinate you or your character from behind without suffering the penalties an outraged citizenry will impose."

If a security system is to work without endangering freedom, the "outraged citizenry" must cry out in indignation whenever the citizen encounters or uncovers an act of injustice. He added the hope that "Republican leaders will begin to acknowledge the criticisms more rapidly and move more swiftly in correcting mistakes in judgment or procedure when they occur." The former Senator acknowledged that in years in the Senate he often tried to cover too much territory.

In his speech Cain cited three instances in which he said the internal security apparatus had failed completely in one respect or another to balance the requirements of freedom with the demands of security. The first was the case of Wolf Ladejinsky, former agricultural attaché in Tokyo, which received wide publicity when the Department of Agriculture denied him clearance and then he was cleared and given a job by the Foreign Operations Administration.

The second case, that of Victor Havris of Detroit, is less well known. A master sergeant in the Air Force with 14 years of service behind him, Havris was found to be a security risk because when he was 12 years old his father took him to a Communist meeting. The Havris case is being reviewed at a higher level.

The third case, that of Milo J. Radulovich, an Air Force first lieutenant pronounced a security risk because of his sister's alleged pro-Communist activities, was resolved in Radulovich's favor when Air Force Secretary Harold Talbott overruled security officers.

Out of his experience of the past 2 years Cain lists what he believes to be the major defects of the present security system. One, which has been frequently cited, is that there is no uniformity of standards between the departments and bureaus and no top review board. Another major defect is that security officers are so often inexperienced, naive and ignorant. One gathers from Cain's speech that his own prescription—2 years of sitting, listening and thinking—would do a great deal for those who administer the security program. Certainly, it has worked an extraordinary transformation in Cain's own case.

Mr. MURRAY. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

Mr. JACKSON. I object, Mr. Chairman.

Mr. MURRAY. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 5 minutes.

The motion was agreed to.

Mrs. CHURCH. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mrs. CHURCH to the committee amendment: On page 5, line 8, after "truth" insert "and merit"; and strike out the "and" between "validity" and "truth" in lines 7 and 8.

Mrs. CHURCH. Mr. Chairman, I offer this amendment merely to confirm in the law itself the intent expressed by the chairman of the committee and by a member of the committee, the gentleman from Michigan, in stating in one earlier debate that the word "merit" is implied in the words "validity" and "truth." I want to make perfectly sure that when the final hearing on each case is held before the Civil Service Commission the merits of the case are considered and judged, as well as the validity and truth of the charges. I think that such an amendment is made necessary because, in reading the report of the committee on page 7, I find these words:

The Commission's review extends to the validity and truth of the charges as well as the propriety of the procedures used.

It seems quite imperative to me, Mr. Chairman, that we extend the full right of review to the merits of the charges as well as the truth and validity of the charges. Each employee who appealed would thus be guaranteed a full and impartial hearing and decision by the Civil Service Commission as to the merits, as well as to the validity and truth of the charges brought against him.

I hope that the amendment is adopted.

Mr. MURRAY. Mr. Chairman, as far as I am concerned, I accept the amendment.

The CHAIRMAN. The question is on the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas [Mr. REES].

Mr. REES of Kansas. Mr. Chairman, may I remind the gentleman who suggested certain groups may be opposed to this legislation I think he will find that those groups did not object to the bill as presently written. Amendments suggested by employees organizations are included in this legislation. If they have objections to this measure I do not know it.

Mr. PORTER. I know the League of Women Voters is still opposed to this bill.

Mr. REES of Kansas. I hardly think, after they have opportunity to study this bill rather carefully, they will be opposed to its intent and purpose.

Let me remind you again that this legislation is intended to protect 2 million loyal, patriotic workers in our Goverment. They do not want Communist minded, fellow travelers, or disloyal people or other security risks in our Government. This legislation is as important to them as it is to those outside Government.

The approval of this legislation is of extreme importance now.

[Mr. JACKSON addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. DENNISON. Mr. Chairman, the debate on this bill, S. 1411, has been of great value. As you know the bill is an attempt to alter the effect of the decision of *Cole* v. *Young* (351 U. S. 536) decided by Supreme Court on June 11, 1956.

When the Cole decision was announced it was felt by many that it was of the utmost urgency to consider legislation which would correct, as it were, the decision of the Supreme Court. In view of the passage of 25 months since the decision of the Court, and in view of statements and representations to the House Post Office and Civil Service Committee in its rather brief hearings, and in view of statements which I shall refer to shortly, this sense of urgency does not appear to be so critical.

As the members know, the Cole decision involved an appeal by one Kendrick M. Cole who was a food and drug inspector for the New York District of the Food and Drug Administration of the Department of Health, Education, and Welfare.

In November 1953, he was suspended without pay from his position pending an investigation to determine whether his employment should be terminated. This suspension was ordered pursuant to what is commonly referred to as Public Law 733, 81st Congress—Sixty-fourth United States Statutes at Large, page 476. Cole was given a written statement of charges alleging "a close association with individuals reliably reported to be Communists" and that he had maintained "a sympathetic association" with, had contributed funds and service to, and had attended social gatherings of an allegedly subversive organization.

The Secretary of Health, Education, and Welfare ultimately determined that Cole's continued employment was not "clearly consistent with the interests of national security" and ordered the termination of his employment. Upon appeal to the Supreme Court of the United States, the Court determined first, that there was no dearth of substantive authority to dismiss this employee on loyalty grounds, but that the question to be decided was not whether the employee could be dismissed on such grounds but only the extent to which the summary procedures prior to hearing are available in such a case.

The Court held as a matter of interpretation that Public Law 733, authorizing summary suspension and dismissal in certain cases did not apply to persons occupied in nonsensitive positions, and that as a matter of fact Cole's position with the Government was in a nonsensitive capacity.

The bill before us declares that all persons working for the Government of the United States are engaged in positions involving national security and are, therefore, in sensitive positions permitting summary suspension and dismissal of any Government employee.

In considering this legislation there are several points which I would like to call to the attention of the House.

First, is there a great need for this law. On the books today Public Law 733, which provides for summary suspension and dismissal of any Government employee serving in a sensitive position, that is those directly concerned with the protection of the Nation, internal subversion, or foreign aggression.

Notwithstanding the Cole decision, Public Law 733 is today applicable to all suitability cases and to all security risks, and to all loyalty cases in sensitive positions.

In addition to Public Law 733, there has been on the books since 1912 the Lloyd LaFollette Act—37th United States Statutes at Large, page 555—which provides for the regular method of discharge of Government employees. Under that act, the Civil Service Commission has issued regulations establishing those causes for which an employee may be discharged. Section 2.106 provides as follows:

(a) Grounds for disqualification: An applicant may be denied appointment for any of the following reasons:

1. Dismissal from employment for delinquency or misconduct;

2. Physical or mental unfitness for the position for which applied;

3. Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct;

4. Intentional false statements or deception or fraud in examination or appointment;

5. Refusal to furnish testimony as required by section 05.3 of rule V;

6. Habitual use of intoxicating beverages to excess (sec. 8, 22 Stat. 406; 5 U. S. C. 640);

7. Reasonable doubt as to the loyalty of the person involved to the Government of the United States; or

8. Any legal or other disqualification which makes the applicant unfit for the service.

Consequently statutory authority exists for the discharge of all persons who deviate from the accepted norm whether it be from a standard of loyalty or a standard of personal behavior or conduct.

The hearings before our committee held last year did not reveal any great need or urgency for this legislation. The subsequent delay of almost a year in bringing the bill to the floor has not added any support to the claim for urgency.

As a matter of fact, a similar bill to this was introduced in the 84th Congress, but was never set for hearing or passed upon.

A little over a year ago on June 21, 1957, the Wright Commission, which had been appointed to consider and review the entire loyalty-security program in this country, submitted its report to the President and to Congress together with its recommendations for comprehensive legislation in the entire loyalty-security field. Practically all of the witnesses to appear on this bill and the chairman himself declared that any such measure as we have before us today should be temporary only until the recommendations of the Wright Commission could be considered and adopted. The committee report bears this out.

In fact the Civil Service Commission stated on July 30, 1957, in a letter to the chairman of this committee, the distinguished gentleman from Tennessee:

It is the Commission's view that any legislation in this field should now await thorough review and analysis of the report of the Wright Commission. If the Congress should decide to proceed with legislation such as H. R. 981 in this session, we would recommend that it be made temporary.

With the thought in mind that the Wright Commission report would be considered during this session of Congress, many on the Committee supported the legislation before us today. However, the fact is that we have not had one single hearing on the Wright Commission report. I am, however, pleased that the chairman has promised hearings on this important legislation.

Almost 2 years have elapsed since the Cole decision and the delay on the part of Congress in doing anything about this decision has accorded the departments of the Government some experience in operating with the statutes presently on the books, namely Public Law 733 and the Lloyd LaFollette Act.

Since every provable case involving loyalty or security or suitability of a Federal employee can be adequately handled under the present law this measure in many respects will duplicate existing procedures.

My second point is: Is it true, as contended in the report, that the Government must accept all new employees and then upon subsequent determination of their unsuitability or disloyalty be unable to discharge them

Section 2.107 of the Civil Service Regulations as amended on November 14, 1957, provides:

(c) For a period of 1 year after the effective date of an appointment subject to investigation under paragraph (a) of this section, the Commission may instruct the agency to remove the employee if investigation discloses that he is disqualified for any of the reasons listed in section 2.106. Thereafter, the Commission may require removal only on the basis of intentional false statements or deception or fraud in examination or appointment.

Accordingly, any employee who is disqualified for reasons set forth in section 2.106, which I have previously read, may be discharged within a year after hiring. This certainly would give the Government ample opportunity to consider the record of any employee.

Lastly, what is the effect of this legislation? This bill will affect in one way or another 2¼ million fellow Americans. Granted that these employees have no vested right in their jobs any more than an employee of a factory in your home district or mine, the policy established by this Government over 70 years ago in setting up a civil-service system and eliminating the old spoils system acknowledged that Federal employees do have certain rights, privileges, and security with respect to their jobs.

This measure before us nevertheless has certain safeguards in it which were not in the original bill. The amendments introduced on the floor have improved it and although I still have serious doubts about the need for this legislation. I shall support it in view of the changes made and the representation made this afternoon by the Chairman in connection with the Wright Commission hearings one word of caution.

All of us have an interest in not only maintaining the quality of the civil service of this country, but in improving it. A great deal of credit goes to the countless thousands of loyal and faithful Americans who have devoted their lives to the service of the public. They are entitled to our respect and to our good faith. Not only that, but they are entitled to the security which has been accorded them through the years in the Civil Service system. They are entitled to be dealt with according to the usual American standards of fair play.

The CHAIRMAN. The question is on the committee amendment as amended.

The committee amendment as amended was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. McCORMACK] having resumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee having had under consideration the bill (S. 1411) to amend the act of August 26, 1950, relating to the suspension of employment of civilian personnel of the United States in the interest of national security, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

Mr. PORTER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Does any Member in the minority wish to offer a motion to recommit?

Is the gentleman from Oregon opposed to the bill?

Mr. PORTER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PORTER moves to recommit the bill to the Post Office and Civil Service Committee with instructions to amend the bill to provide for due process of law in hearings thereunder and for judicial review of all decisions thereunder.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. PORTER), there were—ayes 31, noes 197.

Mr. PORTER. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. MURRAY. Mr. Speaker, on this I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 295, nays 46, not voting 89, as follows:

[Roll No. 125]

YEAS—295

Abbitt	Broomfield	Dellay
Abernethy	Brown, Ga.	Dennison
Adair	Brown, Ohio	Dent
Addonizio	Brownson	Denton
Albert	Broyhill	Devereux
Alexander	Budge	Dixon
Alger	Burleson	Donohue
Allen, Calif.	Bush	Dorn, N. Y.
Allen, Ill.	Byrd	Dorn, S. C.
Andersen, H. Carl	Byrne, Ill.	Doyle
	Byrne, Pa.	Durham
Andrews	Byrnes, Wis.	Dwyer
Ashmore	Canfield	Edmondson
Auchincloss	Cannon	Elliott
Avery	Caranahan	Everett
Ayres	Carrigg	Fallon
Baker	Cederberg	Fascell
Baldwin	Chamberlain	Feighan
Barden	Chelf	Fenton
Bass, N. H.	Chenoweth	Fisher
Bates	Chiperfield	Flood
Baumhart	Church	Flynt
Beamer	Coad	Forand
Beckworth	Collier	Ford
Belcher	Colmer	Forrester
Bennett, Fla	Cooley	Fountain
Bennett, Mich.	Corbett	Frazier
Bentley	Coudert	Frelinghuysen
Berry	Cramer	Friedel
Betts	Cretella	Garmatz
Blitch	Cunningham, Iowa	Gary
Boggs		Gathings
Bolton	Cunningham, Nebr.	Gavin
Bonner		George
Bosch	Curtin	Granahan
Bow	Curtis, Mass.	Grant
Bray	Dague	Gray
Breeding	Davis, Ga.	Gregory
Brooks, La.	Davis, Tenn	Griffin
Brooks, Tex.	Dawson, Utah	Griffiths

Gross	Loser	Rogers, Mass.
Gubser	McCormack	Rogers, Tex.
Hale	McCulloch	Rooney
Haley	McDonough	Rutherford
Halleck	McGregor	Sadlak
Harden	McIntire	St. George
Hardy	McIntosh	Saund
Harris	McVey	Schenck
Harrison, Nebr.	Mack, Ill.	Scherer
Harrison, Va.	Mahon	Schwengel
Harvey	Mailliard	Scott, Pa.
Haskell	Marshall	Scrivner
Healey	Matthews	Scudder
Hemphill	May	Seely-Brown
Henderson	Meader	Selden
Herlong	Merrow	Sheehan
Heselton	Michel	Sheppard
Hess	Miller, Md.	Siler
Hiestand	Miller, Nebr.	Simpson, Ill
Hill	Miller, N. Y.	Smith, Calif.
Hillings	Mills	Smith, Kans.
Hoeven	Mitchell	Smith, Miss.
Holland	Moore	Smith, Va.
Holmes	Morano	Spence
Holt	Morgan	Springer
Horan	Mumma	Staggers
Hosmer	Murray	Stauffer
Huddleston	Natcher	Steed
Hull	Neal	Taber
Hyde	Nicholson	Taylor
Ikard	Nimtz	Teague, Calif.
Jackson	Nix	Teague, Tex.
Jarman	Norblad	Tewes
Jennings	O'Brien, Ill.	Thomas
Jensen	O'Konski	Thompson, Tex.
Johansen	O'Neill	Thomson, Wyo.
Johnson	Osmers	Tollefson
Jonas	Ostertag	Tuck
Jones, Mo.	Patman	Utt
Judd	Patterson	Van Pelt
Kean	Pelly	Van Zandt
Kearns	Philbin	Vorys
Keating	Pilcher	Vursell
Kee	Pillion	Walter
Kelly, N. Y.	Poage	Watts
Keogh	Poff	Westland
Kilgore	Polk	Whitener
Kitchin	Prouty	Whitten
Knox	Quie	Widnall
Knutson	Ray	Wigglesworth
Krueger	Ress, Kans.	Williams, Miss.
Lafore	Rhodes, Ariz.	Wilson, Calif.
Laird	Rhodes, Pa.	Wilson, Ind.
Lane	Riehlman	Winstead
Lankford	Riley	Wright
LeCompte	Roberts	Young
Lennon	Robison, N. Y.	Younger
Lesinski	Robsion, Ky.	Zablocki
Libonati	Rodino	
Lipscomb	Rogers, Fla.	

NAYS—46

Ashley	King	Price
Aspinall	Kirwan	Rabaut
Boland	Kluczynski	Reuss
Bolling	McCarthy	Rogers, Colo.
Boyle	McFall	Roosevelt
Clark	McGovern	Santangelo
Coffin	Macdonald	Sisk
Dawson, Ill.	Madden	Sullivan
Dingell	Magnuson	Teller
Dollinger	Metcalf	Udall
Engle	Miller, Calif.	Ullman
Green, Oreg.	Moss	Vanik
Hagen	Multer	Wier
Holifield	O'Hara, Ill.	Yates
Holtzman	Pfost	
Karsten	Porter	

NOT VOTING—89

Anderson, Mont.	Evins	Mason
Anfuso	Farbstein	Minshall
Arends	Fino	Montoya
Bailey	Fogarty	Morris
Baring	Fulton	Morrison
Barrett	Glenn	Moulder
Bass, Tenn.	Gordon	Norrell
Becker	Green, Pa.	O'Brien, N. Y.
Blatnik	Gwinn	O'Hara, Minn.
Boykin	Hays, Ark.	Passman
Brown, Mo.	Hays, Ohio	Perkins
Buckley	Hébert	Powell
Burdick	Hoffman	Preston
Celler	James	Radwan
Christopher	Jenkins	Rains
Clevenger	Jones, Ala.	Reece, Tenn.
Curtis, Mo.	Kearney	Reed
Delaney	Kilburn	Rivers
Derounian	Kilday	Robeson, Va.
Dies	Landrum	Saylor
Diggs	Latham	Scott, N. C.
Dooley	McMillan	Shelley
Dowdy	Machrowicz	Shuford
Eberharter	Mack, Wash.	Sieminski
	Martin	Sikes
Simpson, Pa.	Trimble	Williams, N. Y.
Talle	Vinson	Willis
Thompson, La.	Wainwright	Withrow
Thompson, N. J.	Weaver	Wolverton
Thornberry	Wharton	Zelenko

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Anderson of Montana against.

Mr. Glenn for, with Mr. Burdick against.

Mr. Arends for, with Mr. Celler against.

Mr. Green of Pennsylvania for, with Mr. Farbstein against.

Mr. Martin for, with Mr. Zelenko against.

Mr. Delaney for, with Mr. Gordon against.

Mr. Fogarty for, with Mr. Machrowicz against.

Mr. Hays of Ohio for, with Mr. Diggs against.

Mr. Barrett for, with Mr. Blatnik against.

Mr. Preston for, with Mr. Shelley against.

Until further notice:

Mr. Landrum with Mr. Simpson of Pennsylvania.

Mr. Anfuso with Mr. Hoffman.

Mr. Buckley with Mr. Gwinn.

Mr. Moulder with Mr. Fino.

Mr. Morrison with Mr. Talle

Mr. Thompson of Louisiana with Mr. Weaver.

Mr. Bailey with Mr. Becker.

Mr. Baring with Mr. Latham.

Mr. Hays of Arkansas with Mr. Reece of Tennessee.

Mr. Thompson of New Jersey with Mr. Wainwright.

Mr. Kilday with Mr. Kilburn.

Mr. Scott of North Carolina with Mr. Kearney.

Mr. Robeson of Virginia with Mr. Curtis of Missouri.

Mr. Willis with Mr. Minshall.

Mr. Norrell with Mr. Dooley.

Mr. O'Brien of New York with Mr. Clevenger.

Mr. Rains with Mr. Wolverton.

Mr. Evins with Mr. Saylor.

Mr. Dowdy with Mr. O'Hara of Minnesota.

Mr. Christopher with Mr. James.

Mr. Brown of Missouri with Mr. Fulton.

Mr. Thornberry with Mr. Derounian.

Mr. Trimble with Mr. Reed of New York.

Mr. Boykin with Mr. Wharton.

Mr. Rivers with Mr. Mack of Washington.

Mr. Montoya with Mr. Radwan.

Mr. Vinson with Mr. Withrow.

Mr. McMillan with Mr. Jenkins.

Mr. Morris with Mr. Williams of New York.

Mr. Sikes with Mr. Mason.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND REMARKS

Mr. REES of Kansas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill S. 1411, just passed.

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

There was no objection.

AUTHORIZING MILITARY CONSTRUCTION

Mr. BROOKS of Louisiana. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H. R. 13015) to authorize certain construction at military installations, and for other purposes, which passed the House this morning, the Clerk be authorized to correct section numbers and paragraph letters in the bill.

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

Mr. GROSS. Reserving the right to object, Mr. Speaker, and I hope I shall not have to object, this request is no wise changes the purport of the amendment I offered to the bill and which makes necessary the technical changes? Is that correct?

Mr. BROOKS of Louisiana. This request is made necessary by the Gross amendment. It does not change in one iota any portion of the bill, except the section numbers and the paragraph letters.

Mr. GROSS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

RENUMBERING OF SECTIONS

Mr. SMITH of California. Mr. Speaker, I ask unanimous consent that in the engrossment of House Joint Resolution 424 the Clerk be authorized to correct the section numbers.

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

There was no objection.

COMMITTEE ON ARMED SERVICES

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that the bill H. R. 13265 may be rereferred to the Committee on Armed Services.

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

There was no objection.

CONGRESSMAN CHARLES PORTER, A FRIENDLY RECEPTION

(Mrs. GREEN of Oregon asked and was given permission to extend her remarks at this point in the RECORD and include an editorial.)

Mrs. GREEN of Oregon. Mr. Speaker, on this last Tuesday, I included in the CONGRESSIONAL RECORD an editorial from the New York Times commenting on the excellent reception accorded the distinguished Representative from the Fourth Congressional District of Oregon by the people of Venezuela.

The enthusiastic greetings extended to Mr. CHARLES O. PORTER are reflected in the press of Venezuela. It is most fitting that on July 4, 1958, the newspaper El Mundo, of Caracas, Venezuela, carried an editorial entitled "Welcome, Mr. PORTER." In it we again see admiration expressed for a courageous Congressman who has won international respect for his opposition to dictators—to tyranny

in any form. I am including herewith a translation of that editorial:

WELCOME, MR. PORTER

Today Congressman PORTER is a most welcome guest of Venezuela. Perhaps on this occasion it is entirely fitting to use that favorite phrase coined by hurried speakers when they say, before some personage whose brief biography they have to give, that no introduction is necessary. Because in Latin America the language of affection has rounded off the name of CHARLES O. PORTER. There is no corner of America, stirred by the winds of liberty, where the work and figure of the North American Congressman have not acquired the distinction reserved for a true friend. CHARLES O. PORTER is a Latin American by adoption, compatriot by that tie stronger than laws, that of shared ideals and emotions. When PORTER denounces the dictators from his congressional seat, he erases frontiers and makes of the United States and Latin America one country united by identical preoccupations.

PORTER has been surrounded since his arrival in Venezuelan territory by the warmth of enthusiastic welcome. In the airport, the morning breeze stirred messages of affection toward the man who, in the House of Representatives of the United States, has given life again to those heroic feats of the solitary fighters who do not yield to indifference or to the difficulties which encircle them. Among friendly shouts from grateful Venezuelans, Cubans, and Dominicans, PORTER stepped upon this land which always was his and which now he visits when liberty can pay him the homage he deserves. Democratic solidarity, as demonstrated in the reception accorded this illustrious North American, is not a mere theoretical concept but a reality which should be visibly manifested.

But more than the personality of PORTER and the success which he is now gathering in Venezuela, we should pay attention to the causes that have brought Latin America to accord him the vast credit of confidence which he is now enjoying. PORTER proves that in our continent there are not feelings of hostility toward the United States. When some personage of that country has been repudiated, by acts whose aggressiveness we all condemn, a policy of complacency toward dictatorships, of oppressive economic penetration, and of injustice in the relations between the two Americas is being challenged. Neither Mr. NIXON, as an acknowledged leader of the policy of his country, or even less the name of his country, were insulted or scoffed at in the manifestations which took place in Latin America almost 2 months ago. In that moment it was made clear the non-conformity of a whole people toward procedures which are not now geared to the maturity and the dignity of our countries. That United States was attacked which confuses its dividends with democracy and which identifies the cause of liberty with sustaining macabre despots. But there is another United States, that which CHARLES PORTER incarnates, the United States which today recalls its Declaration of Independence and that where the message of Lincoln and of Roosevelt continues to instruct the intellectuals and the workers whose love of the principles of progressive democracy neither public relations experts nor the interests of the great corporations have succeeded in erasing.

To that United States, which is not for sale, which refuses to be weighed in the balance of material desires, home of men and torch of progress, we wish to hand over our gratitude through the medium of CHARLES O. PORTER.

Onward, PORTER.

UNFAIR BUSINESS PRACTICES

(Mr. CUNNINGHAM of Nebraska (at the request of Mr. HENDERSON) was given permission to extend his remarks at this point in the RECORD.)

Mr. CUNNINGHAM of Nebraska. Mr. Speaker, for many years the Congress has acted to prevent big business from swallowing up small competitors through unfair business methods. Antitrust laws, special consideration for small businesses and antimonopoly laws are examples of congressional action in this field.

A need exists for further legislation in this field to prevent large corporations from unfairly competing with small businesses. I am introducing a bill today which is designed to protect the small merchant from one unfair business practice.

At present, big business is free to discriminate by selling at unreasonably low prices in some sections of the country while holding prices high in other areas. In doing that, they can destroy the small businessman and create a monopoly.

My bill will allow small merchants to defend themselves against such tactics. It is needed because a recent United States Supreme Court decision held that small-business men cannot use section 3 of the Robinson-Patman Act as a basis of proceedings against big businesses which discriminate in price for the purpose of eliminating competition.

Section 3 of the Robinson-Patman Act provides, in part, that it is unlawful for a business to sell goods at a lower price in one part of the country than in other parts of the country if such lower price is set for the purpose of destroying competition. If this avenue is not open to small-business men who are being ruined by arbitrary price cuts by big-business competitors, there is no place for them to turn.

My bill amends section 1 of the Clayton Antitrust Act to provide that the term "antitrust laws" as used therein will be taken to include section 3 of the Robinson-Patman Act. This will once again give small-business men an opportunity to act against big national or regional competitors who cut prices in one area solely to drive out competition and establish a monopoly.

PERSONAL ANNOUNCEMENT

Mr. GREEN of Pennsylvania. Mr. Speaker, during the vote on S. 1411, the so-called security bill, I was conferring with some constitutents in my office. If I had been able to be in the Chamber, I would have voted "yea," but I had to miss the rollcall for that reason.

ADJOURNMENT OVER

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

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

There was no objection.

AUTHORIZING SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Monday next, the clerk be authorized to receive messages from the Senate and that the Speaker pro tempore be authorized to sign any enrolled bills and joint resolutions duly passed by the two houses and found truly enrolled.

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

There was no objection.

CALENDAR WEDNESDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the call of the committees under the Calendar Wednesday rule may be dispensed with on Wednesday next.

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

There was no objection.

EXEMPTION OF PROCESSING OF CIGAR WRAPPER TOBACCO UNDER FAIR LABOR STANDARDS ACT

(Mrs. BLITCH asked and was given permission to address the House for 1 minute and to revise and extend her remarks and to include a letter.)

Mrs. BLITCH. Mr. Speaker, yesterday I introduced a bill designed to correct a serious injustice brought about as a result of what is regarded by many as a misinterpretation of the Fair Labor Standards Act.

My bill would clarify the present definition of "Agriculture" so as to include within the agricultural exemption the processing of shade-grown tobacco used as cigar wrappers.

According to statistics—which will be presented to the appropriate committee of the House—passage of my bill will increase the wages of 8,000 to 10,000 cigarmakers from $4 to $8 per week. This means that the people who work in cigar factories would receive, annually, somewhere between $1,600,000 and $4 million in increased pay.

My bill is supported by the Cigar Makers' International Union of America, AFL–CIO. Under permission granted, I include at this point in my remarks a letter from the president of the Cigar Makers Union to Chairman BARDEN, of the Committee on Education and Labor:

CIGAR MAKERS' INTERNATIONAL UNION OF AMERICA,
Washington, D. C., May 14, 1957.

Hon. GRAHAM A. BARDEN,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D. C.

DEAR CHAIRMAN BARDEN: Last year during the course of the hearings before your committee the Florida-Georgia Cigar Leaf Tobacco Growers Association asked that the Fair Labor Standards Act be amended so as to exempt from coverage approximately 5,000 farmworkers who, from time to time during the tobacco season, also work in the tobacco