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TAHOE REGIONAL PLANNING COMPACT

GOVERNMENT

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HEARINGS

BEFORE

SUBCOMMITTEE NO. 3

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-FIRST CONGRESS

FIRST SESSION

ON

S. 118

A BILL TO GRANT THE CONSENT OF THE CONGRESS
TO THE TAHOE REGIONAL PLANNING COMPACT, TO
AUTHORIZE THE SECRETARY OF THE INTERIOR
AND OTHERS TO COOPERATE WITH THE PLANNING
AGENCY THEREBY CREATED, AND FOR OTHER
PURPOSES

NOVEMBER 12, 1969

Serial No. 91-6

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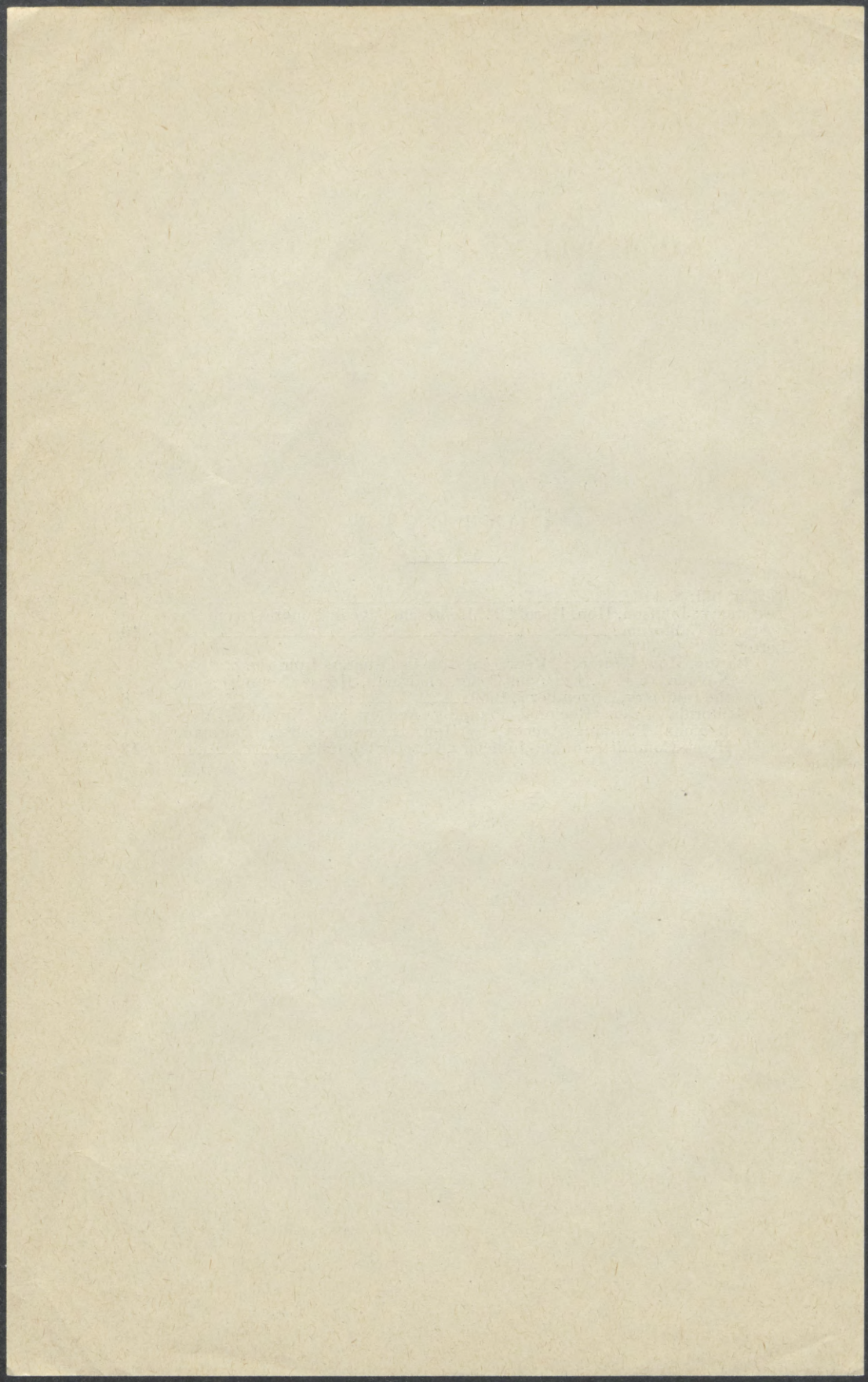
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CONTENTS

	Page
Text of bill: S. 118-----	1
Testimony: Johnson, Hon. Harold T., Representative in Congress from the State of California-----	10
Letters:	
Baring, Hon. Walter S., Representative in Congress from the State of Nevada, to Hon. Emanuel Celler, chairman, House Committee on the Judiciary, November 7, 1969-----	8
California Tahoe Regional Planning Agency and Nevada Tahoe Regional Planning Agency, to Hon. Emanuel Celler, chairman, House Committee on the Judiciary, October 20, 1969-----	13



TAHOE REGIONAL PLANNING COMPACT

WEDNESDAY, NOVEMBER 12, 1969

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 3 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10:55 a.m., pursuant to call, in room 2226, Rayburn House Office Building, Hon. Robert W. Kastenmeier presiding.

Present: Representatives Kastenmeier, St. Onge, Mikva, Poff, Hutchinson, and Biester.

Staff members present: Herbert Fuchs, counsel; and Paul Fenton, associate counsel.

Mr. KASTENMEIER. The subcommittee will come to order.

The subcommittee is interrupting its program at this point to hold a brief public hearing on S. 118, to grant the consent of the Congress to the Tahoe regional planning compact, to authorize the Secretary of the Interior and others to cooperate with the planning agency thereby created, and for other purposes. A copy of S. 118 will be made part of the record at this point.

(The bill referred to is as follows:)

[S. 118, 91st Congress, first sess.]

AN ACT To grant the consent of the Congress to the Tahoe regional planning compact, to authorize the Secretary of the Interior and others to cooperate with the planning agency thereby created, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to encourage the wise use and conservation of the waters of Lake Tahoe and of the resources of the area around said lake, the consent of the Congress is hereby given to the Tahoe regional planning compact heretofore adopted by the States of California and Nevada, which compact reads as follows:

"TAHOE REGIONAL PLANNING COMPACT

"Article I. Findings and Declarations of Policy

"(a) It is found and declared that the waters of Lake Tahoe and other resources of the Lake Tahoe region are threatened with deterioration or degeneration, which may endanger the natural beauty and economic productivity of the region.

"(b) It is further declared that by virtue of the special conditions and circumstances of the natural ecology, developmental pattern, population distribution, and human needs in the Lake Tahoe region, the region is experiencing problems of resource use and deficiencies of environmental control.

"(c) It is further found and declared that there is a need to maintain an equilibrium between the region's natural endowment and its manmade environment, to preserve the scenic beauty and recreational opportunities of the region, and it is recognized that for the purpose of enhancing the efficiency and governmental effectiveness of the region, it is imperative that there be established an areawide planning agency with power to adopt and enforce a regional plan of resource con-

servation and orderly development, to exercise effective environmental controls and to perform other essential functions, as enumerated in this title.

"ARTICLE II. DEFINITIONS

"As used in this compact:

"(a) 'Region,' includes Lake Tahoe, the adjacent parts of the Counties of Douglas, Ormsby, and Washoe lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B.&M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

"(b) 'Agency' means the Tahoe Regional Planning Agency.

"(c) 'Governing body' means the governing board of the Tahoe Regional Planning Agency.

"(d) 'Regional plan' shall mean the long-term general plan for the development of the region.

"(e) 'Interim plan' shall mean the interim regional plan adopted pending the adoption of the regional plan.

"(f) 'Planning commission' means the advisory planning commission appointed pursuant to paragraph (h) of Article III.

"ARTICLE III. ORGANIZATION

"(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

"The governing body of the agency shall be constituted as follows:

"One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Each member shall be a member of the city council or county board of supervisors which he represents and, in the case of a supervisor, shall be a resident of a county supervisorial district lying wholly or partly within the region.

"One member appointed by each of the boards of county commissioners of Douglas, Ormsby and Washoe counties. Any member so appointed shall be a resident of the county from which he is appointed and may be, but is not required to be:

"(1) A member of the board which appoints him; and

"(2) a resident of or the owner of real property in the region, as each board of county commissioners may in its own discretion determine. The manner of selecting the person so to be appointed may be further prescribed by county ordinance. A person so appointed shall before taking his seat on the governing body disclose all his economic interests in the region, and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. If any board of county commissioners fails to make an appointment required by this paragraph within 30 days after the effective date of this act or the occurrence of a vacancy on the governing body, the governor shall make such appointment. The position of a member appointed by a board of county commissioners shall be deemed vacant if such member is absent from three consecutive meetings of the governing body in any calendar year.

"One member appointed by the Governor of California and one member appointed by the Governor of Nevada. The appointment of the California member is subject to Senate confirmation; he shall not be a resident of the region and shall represent the public at large. The member appointed by the Governor of Nevada shall not be a resident of the region and shall represent the public at large.

"The Administrator of the California Resources Agency or his designee and the Director of the Nevada Department of Conservation and Natural Resources or his designee.

"(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this

compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

"(c) The term of office of the members of the governing body shall be at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years.

"(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as 'the first Monday of each month,' and shall not change such date oftener than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each country a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date, place, and agenda at least 5 days prior to the meeting.

"(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

"(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be two years, and who may be re-elected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

"(g) A majority of the members of the governing body from each state shall constitute a quorum for the transaction of the business of the agency. A majority vote of the members present representing each state shall be required to take action with respect to any matter. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

"(h) An advisory planning commission shall be appointed by the agency, which shall consist of an equal number of members from each state. The commission shall include but shall not be limited to: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and the Counties of Douglas, Ormsby, and Washoe in Nevada, the Placer County Director of Sanitation, the El Dorado County Director of Sanitation, the county health officer of Douglas County or his designee, the county health officer of Washoe County or his designee, the Chief of the Bureau of Environmental Health of the Health Division of the Department of Health, Welfare and Rehabilitation of the State of Nevada or his designee, the executive officer of the Lahontan Regional Water Quality Control Board or his designee, the executive officer of the Tahoe Regional Planning Agency who shall act as chairman and at least four lay members each of whom shall be a resident of the region.

"(i) The agency shall establish and maintain an office within the region. The agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

"(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken. Upon receipt of certified copies of the resolutions or notifications appointing the members of the governing body, the Secretary of State of each respective state shall notify the Governor of the state who shall, after consultation with the Governor of the other state, issue a concurrent call for the organization meeting of the governing body at a location determined jointly by the two governors.

"(k) Each state may provide by law for the disclosure or elimination of conflicts of interest on the part of members of the governing body appointed from that state.

"ARTICLE IV. PERSONNEL

"(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this act or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

"(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency, and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

"(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

"ARTICLE V. PLANNING

"(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this paragraph shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

"The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice is required in this paragraph.

"If a request is made for the amendment of the regional plan by:

"(1) a political subdivision a part of whose territory would be affected by such amendment; or

"(2) the owner or lessee of real property which would be affected by such amendment.

the governing body shall complete its action on such amendment within 60 days after such request is delivered to the agency.

"TAHOE REGIONAL PLAN

"(b) Within 15 months after the formation of the agency, the planning commission shall recommend a regional plan. Within 18 months after the formation of the agency, the governing body shall adopt a regional plan. After adoption, the planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards, and elements of the regional plan.

"The regional plan shall include the following correlated elements:

"(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to, an indication or allocation of maximum population densities.

"(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to, freeways, parkways, highways, transportation facilities, transit routes, waterways, navigation and aviation aids and facilities, and appurtenant terminals and facilities for the movement of people and goods within the region.

"(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

"(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas and other recreational facilities.

"(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

"In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region. Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private individuals.

"(c) All provisions of the Tahoe regional general plan shall be enforced by the agency and by the states, counties and cities in the region.

"TAHOE REGIONAL INTERIM PLAN

"(d) Within 60 days after the formation of the agency, the planning commission shall recommend a regional interim plan. Within 90 days after the formation of the agency, the governing body shall adopt a regional interim plan. The interim plan shall consist of statements of development policies, criteria and standards for planning and development, of plans or portions of plans, and projects and planning decisions, which the agency finds it necessary to adopt and administer or an interim basis in accordance with the substantive powers granted to it in this agreement.

"(e) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan and interim plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

"(f) All provisions of the interim plan shall be enforced by the agency and by the states, the counties, and cities.

"ARTICLE VI. AGENCY'S POWERS

"(a) The governing body shall adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional and interim plans. Every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the basin, and any political subdivision may adopt and enforce an equal or higher standard applicable to the same subject of regulation in its territory. The regulations shall contain general, regional standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers; harbors, breakwaters; or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the interim plan or the general plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the interim or general plan.

"Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the interim plan or the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

"Interim regulations shall be adopted within 90 days from the formation of the agency and final regulations within 18 months after the formation of the agency.

"Every plan, ordinance, rule, regulation or policy adopted by the agency shall recognize as a permitted and conforming use any business or recreational establishment which is required by law of the state in which it is located to be individually licensed by the state, if such business or establishment :

"(1) Was so licensed on February 5, 1968, or was licensed for a limited season during any part of the calendar year immediately preceding February 5, 1968.

"(2) Is to be constructed on land which was so zoned or designated in a finally adopted master plan on February 5, 1968, as to permit the construction of such a business or establishment.

"(b) All ordinances, rules, regulations and policies adopted by the agency shall be enforced by the agency and by the respective states, counties, and cities. The appropriate courts of the respective states, each within its limits of territory and subject matter provided by state law, are vested with jurisdiction over civil actions to which the agency is a party and criminal actions for violations of its ordinances. Each such action shall be brought in a court of the state where the violation is committed or where the property affected by a civil action is situated, unless the action is brought in a federal court. For this purpose, the agency shall be deemed a political subdivision of both the State of California and the State of Nevada.

"(c) Except as otherwise provided in paragraph (d), all public works projects shall be reviewed prior to construction and approved by the agency as to the project's compliance with the adopted regional general plan.

"(d) All plans, programs and proposals of the State of California or Nevada, or of its executive or administrative agencies, which may substantially affect, or may specifically apply, to the uses of land, water, air, space and other natural resources in the region, including but not limited to public works plans, programs, and proposals concerning highway routing, design and construction, shall be referred to the agency for its review, as to conformity with the regional plan or interim plan, and for report and recommendations by the agency to the executive head of the state agency concerned and to the Governor. A public works project which is initiated and is to be constructed by a department of either state shall be submitted to the agency for review and recommendation, but may be constructed as proposed.

"(e) The agency shall police the region to ensure compliance with the general plan and adopted ordinances, rules, regulations and policies. If it is found that the general plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

"(f) Violation of any ordinance of the agency is a misdemeanor.

"(g) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

"(h) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

"(i) Whenever a new city is formed within the region, the membership of the governing body shall be increased by two additional members, one appointed by, and who shall be a member of, the legislative body of the new city, and one appointed by the Governor of the state in which the city is not located. A member appointed by the Governor of California is subject to Senate confirmation.

"(j) Every record of the agency, whether public or not, shall be open for examination to the Legislative Analyst of the State of California and the Fiscal Analyst of the State of Nevada.

"(k) Whenever under the provisions of this article or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any proposal, public or private, the agency shall take final action, whether to approve, to require modification or to reject such proposal, within 60 days after such proposal is delivered to the agency. If the agency does not take final action within 60 days, the proposal shall be deemed approved.

"ARTICLE VII. FINANCES

"(a) Except as provided in paragraph (e), on or before December 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion not more than \$150,000 of this amount

among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. Each county in California shall pay the sum allotted to it by the agency from any funds available therefor and may levy a tax on any taxable property within its boundaries sufficient to pay the amount so allocated to it. Each county in Nevada shall pay such sums from its general fund or from any other moneys available therefor.

"(b) The agency may fix and collect reasonable fees for any services rendered by it.

"(c) The agency shall be strictly accountable to any county in the region for all funds paid by it to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursements.

"(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds.

"(e) As soon as possible after the ratification of this compact, the agency shall estimate the amount of money necessary to support its activities:

"(1) For the remainder of the then-current fiscal year; and

"(2) If the first estimate is made between January 1 and June 30, for the fiscal year beginning on July 1 of that calendar year.

The agency shall then allot such amount among the several counties, subject to the restriction and in the manner provided in paragraph (a), and each county shall pay such amount.

"(f) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

"ARTICLE VIII. MISCELLANEOUS

"(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in paragraph (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

"(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

"(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

"(d) No provision of this compact shall have any effect upon the allocation or distribution of interstate waters or upon any appropriative water right."

SEC. 2. The Secretary of the Interior and the Secretary of Agriculture are authorized, upon request of the Tahoe Regional Planning Agency, to cooperate with said agency in all respects compatible with carrying out the normal duties of their Departments.

SEC. 3. The consent to the compact by the United States is subject to the condition that the President may appoint a nonvoting representative of the United States to the Tahoe regional planning governing board.

SEC. 4. Any additional powers conferred on the agency pursuant to article VIII(b) of the compact shall not be exercised unless consented to by the Congress.

SEC. 5. Nothing contained in this Act or in the compact consented to shall in any way affect the powers, rights, or obligations of the United States, or the applicability of any law or regulation of the United States in, over, or to the region

or waters which are the subject of the compact, or in any way affect rights owned or held by or for Indians or Indian tribes subject to the jurisdiction of the United States.

SEC. 6. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Passed the Senate November 5, 1969.

Attest:

FRANCIS R. VALEO,
Secretary.

MR. KASTENMEIER. In course of executive consideration of this legislation last week, the suggestion was made that the issue of giving congressional consent to the Tahoe regional planning compact is or has been a controversial one. On the other hand, the subcommittee knows of no objection to the compact legislation.

Our colleague, the Honorable Harold T. (Bizz) Johnson, of California, author of an identical House bill, H.R. 3678, has agreed to appear and testify before the subcommittee with a view to clarifying this question.

The subcommittee is also in receipt of a communication from our colleague, the Honorable Walter S. Baring, of Nevada, a cosponsor of H.R. 3678, urging prompt action on the subject legislation. Congressman Baring's letter will be inserted in the record.

(The communication referred to follows:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 7, 1969.

HON. EMANUEL CELLER,
Chairman, Judiciary Committee, U.S. House of Representatives,
Washington, D.C.

DEAR COLLEAGUE: I would deeply appreciate if action could be taken on legislation introduced jointly by me and Bizz Johnson, H.R. 3678, the Tahoe Regional Planning Compact.

The legislation is long overdue, and its counterpart in the Senate has already been passed by that body S. 118.

The compact is designed to establish a comprehensive long-range plan to harmonize the needs of an entire region with the plans and activities of Federal, State, and local governing bodies and other public and nongovernmental agencies.

The proposed legislation, granting the consent of Congress to the California-Nevada Lake Tahoe Regional Planning Compact is brought before the Congress for ratification. The compact agreed to by the legislatures of both Nevada and California, authorizes creation of a bi-State agency to deal with water pollution control and land development problems in the Lake Tahoe basin.

Today, Lake Tahoe is a State and national treasure; however, it faces many problems due to indiscriminate, largely uncontrolled development. It is essential that its problems be attacked on a regional basis. Stopgap measures have been taken, but these are not, and cannot be, as useful as Federal-State working agreements for planning the development of this beautiful region. For this reason, I urge early action on this timely and important measure.

I am enclosing copies of two articles which appeared in recent Nevada newspapers which I believe you will find self-explanatory.

Sincerely,

WALTER S. BARING,
Congressman for Nevada.

[From Nevada State Journal, Sunday, Oct. 26, 1969]

WESTERGARD CRITICIZES DELAY IN APPROVAL OF WATER COMPACTS

SPOKANE, WASH.—Nevada State Engineer Roland D. Westergard criticized Congressional delay in consenting to interstate compacts. He spoke at the 38th annual convention of the National Reclamation Association in Spokane.

Reporting on the earlier convention in Sparks of the group he heads as president, the Western States Engineers Association, Westergard referred specifically

to the proposed California-Nevada Interstate Lake Tahoe Regional Compact ratified last year by legislature of both states but still pending on the federal level.

"In most instances federal agencies have been represented or even participated in negotiating compacts and, therefore, it should be possible to expedite the federal review," he said.

"A case in point is the Lake Tahoe Regional Planning Compact between the states of Nevada and California where undue delays in the federal review are threatening the very capability to protect Lake Tahoe," Westergard protested.

He also repeated objections to lack of a clear cut decision on whether water on public lands should be under jurisdiction of the individual states. Nevada has been particularly critical of failure of the Federal Government to abide by the state's water laws.

Westergard said state engineers are watching closely activities of the new National Water Commission and are anxious to aid it in any way possible.

"Developments of ground water basins have been dependent in large part on a consideration of available water quantities," he told reclamation delegates. "However as water is withdrawn, applied and a portion is ultimately returned to the ground water reservoir the water quality is also affected by the resulting concentration of solids.

"Ground water quality must also be protected by proper well drilling procedures. As we become even more dependent upon our ground water supplies these problems are deserving of more attention," Westergard said.

[From Gardnerville Record-Courier, Oct. 23, 1969]

ENVIRONMENTAL PLANNING

In an area such as Carson Valley, which is just beginning to experience the pains of growth, much attention is paid to master planning, subdivision planning, and industrial development potentials.

But what about environmental planning? What about developing codes and regulations to protect the natural environment which has made Douglas County, with its Lake Tahoe and its Carson Valley, one of the most environmentally desirable areas of the entire West.

Paramount among the treasures of the Douglas County environment has been the dual nature of the county, offering Alpine mountains and lakes in the Sierras, with the high, arid desert of the Valley flatlands.

Until only recently, Douglas has been able to boast pure water, clean air, good hunting, good fishing, and a pastoral attitude as its prime qualities of environment, things virtually every disillusioned city dweller is seeking, providing he has enough money to "split the scene."

Creation of the Nevada-Tahoe Planning Agency, which will be replaced by the Bi-State Agency upon Congressional ratification, has been, hopefully, step number one in environmental planning.

But—and it is a large BUT—the number of Tahoe developments now in progress, both at the north and the south shores, may render the Bi-State Agency sterile when it finally becomes a fact.

By the time of ratification, the number of developers who have been able to get under the fence at the Lake, may have produced such changes in the environment that regulations on the remaining open lands will be all but useless.

By the same token, the Lake developments already in progress are resulting in more and more millions of gallons of effluent which must be removed from the Lake basin, and which, to this date, are all being emptied into Carson Valley, with the resulting effects not yet known.

Therefore, in Douglas County, the once pure water is now somewhat less than that, by reason of the effluent export, and for whatever unknown reasons, hunting and fishing are declining at a frightening rate.

The once pastoral scenery is now somewhat altered by the massive subdivision developments at the Lake, and those proposed in the Valley, if for instance, the Dangberg Ranch is sold and 50,000 agricultural acres are rearranged as "residential communities," and the other already-sold ranches are developed as subdivision properties.

Those who have lived in western Nevada for 15 years or more have watched smog overtake Reno and Carson City, as is evidenced by a drive on U.S. 395 from Reno south to the Valley, and if all the proposed subdivision developments take place there is no question but that the same blanket of smog may be expected to cover the Valley one day in the not too distant future.

There is, of course, the distinct possibility that there simply is not enough industry to hire the number of people it will require to purchase all the contemplated subdivision land in Douglas County, but in the interim, why not some environmental planning? Why not some sort of a master plan to protect the very factors that have made Douglas County, up until this crucial point, so desirable a place?

Need we wait until the horse is out to close the barn door?

Mr. KASTENMEIER. Without objection and at this point, then, the subcommittee welcomes our colleague, Mr. Johnson.

STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. JOHNSON. Thank you, Mr. Chairman and members of the committee, for allowing me to come here and appear before you and to say something that might clarify the position of the Indians who are concerned over another compact that is still being studied and has not been perfected by either the State of Nevada or the State of California, nor is it before the Congress, naturally at this time.

Congressman Baring and I introduced H.R. 3678, and the like bill in the other body, S. 118, was introduced by the Senators from the State of California and the State of Nevada. Congressman Baring and I introduced the House measure, as we represent the area comprising the Tahoe Basin. He has two counties on the Nevada side, and I have two counties on the California side, along with the city of South Lake Tahoe.

The legislatures of both States perfected the compact and it was sent to Washington for introduction as to the consent of Congress or the ratification. Both Governors, the Governor of the State of California and the Governor of the State of Nevada, supported the compact and the legislation asking for the consent of Congress or ratification.

The Secretary of the Interior reported on the measure, recommending certain amendments. These were written in on the Senate side, and there was no opposition to them voiced in the other body, either in hearing or on the floor, as I understand it.

Our Governor of California and the Governor of the State of Nevada have assured Congressman Baring and myself that they have no objections as the Senate bill reads now with the amendments in it. There was a controversy brought up as to violating some of the rights of the Indians. I want to assure the committee here that this is in behalf of the compact that is being perfected that deals with water rights on the Walker, the Carson, the Truckee River, with Lake Tahoe being one of the reregulating reservoirs that deal with water matters in the State of California and the State of Nevada.

That legislation failed prior to the close of the two legislative sessions. Each State has appointed a task force. The Secretary of Interior has his people involved as well as the Secretary of Agriculture. They are now holding meetings to try and perfect language to introduce in the way of a compact during the next sessions of the two legislatures.

Now, this is quite controversial, as you know, and I believe this committee has received some correspondence and news articles, and the water rights that come out of the Tahoe Basin and the other streams that I mentioned are the lifeblood of Pyramid Lake, which belongs to the Indians in that area. Pyramid Lake is receiving a great deal of con-

sideration at the present time as to a proper water right in the new compact.

Mr. KASTENMEIER. If I may interrupt, the new compact, I am told, is designated the California-Nevada interstate compact concerning the Waters of Lake Tahoe, Truckee River, Carson River, and Walker River Basin. Is that correct?

Mr. JOHNSON. That is true. That will be reintroduced into the Legislatures of Nevada and California for perfection when they reconvene.

The task forces are working now, and they comprise the Indians, the agencies I mentioned, and the two States and the counties affected and the city of South Tahoe.

The Tahoe Basin is a very fast-growing area, as you people know, and we have all kinds of problems dealing with growth. I think it is very necessary that we perfect the Tahoe regional planning compact and Congress grant its consent. I know of no objections by any of the Indians to the legislation. I have received nothing.

I have checked with my two Senators, the two Senators from the State of Nevada, and Congressman Baring, the two Governor's offices, and they claim there is no opposition to the compact. The only suggestion was that made by the Secretary of the Interior, and it was complied with in the other body and we have no objections. This spells it out again, as well as in the compact itself, that the Indians' water rights are not involved in this compact.

Mr. KASTENMEIER. Yes.

Mr. JOHNSON. I know of no Indians' land within the confines of the basin where the real problem exists as to planning. The Tahoe Basin now has about a maximum of 150,000 people using that area on any one given top day in the summertime and about 70,000 using the area in the wintertime, because it is one of the key points in our winter sports activities in California and Nevada.

It used to be snowbound from, say, November until May. But with the advent of the snowplow and the new roads, access is very good and the resources are being used by many, many thousands of people from all over the world, all over the United States, and from all parts of our State.

We do have this problem of growth there with all of its problems to solve, and the intent behind this was to get a local Tahoe regional planning compact perfected by the two legislative bodies and consent given by Congress so that we can have a head to it and develop an overall plan.

We need a regional plan, and we can't do it with the setup we have now with the two counties of Nevada, the State of Nevada, the State of California, the two counties in California, and one incorporated city. They just don't seem to get together on the regional plan, and this is what everyone has agreed upon.

I wouldn't be here if we were going to jeopardize the rights of the Indians. I think that will be straightened out in the water compact that will be perfected during 1970 and be before the body here for consent and ratification a little later.

Mr. KASTENMEIER. I appreciate the gentleman's clarification and his appearance here this morning.

Actually, reading from the proposed compact before us, page 22, line 16, section (d) reads as follows: "No provision of this compact

shall have any effect upon the allocation or distribution of interstate waters or upon any appropriative water right." I have no further questions at this point.

Mr. JOHNSON. Mr. Chairman, I would like to, if I may, submit a statement for the record in support of the legislation.

Mr. KASTENMEIER. Without objection, the statement will be received and made a part of the record.

(The statement referred to follows:)

PREPARED STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CHAIRMAN: It is indeed a privilege to meet with you and members of your committee on H.R. 3678, a bill to grant the consent of the Congress to the Tahoe Regional Planning Compact, to authorize the Secretary of the Interior and others to cooperate with the planning agency thereby created, and for other purposes.

The bill, as introduced, reflects the language of the Tahoe Regional Planning Compact which was ratified last year by the legislatures of the states of California and Nevada. This compact would establish a bi-state Tahoe Regional Planning Agency to provide for long range planning for the proper development of the Lake Tahoe basin including the lake itself and the lands immediately surrounding it.

H.R. 3678, as part of the first section, quotes in its entirety the compact ratified by the two states.

While the compact, which I would hope this committee ratifies, is dedicated to the proposition of conservation and wise utilization of Lake Tahoe and the resources of the lands in the basin, it should be emphasized that this compact in no way allocates the water resources or disturbs the water rights of the Truckee River which flows out of Lake Tahoe. Any allocation of the water resources which flow from Lake Tahoe by way of the Truckee River would have to be accomplished through a completely separate compact by the states of Nevada and California. The fact that such a compact has been under consideration for a good many years, and at one point a draft of such a compact had been agreed to by an Interstate Compact Commission, has caused considerable confusion about the purpose of the legislation you have before you.

This proposed *water* compact at one point had received the approval of the Nevada state legislature but never received the approval of the California state legislature. Consequently, it is now back under negotiation within the compact commission itself.

This proposed compact would divide the waters flowing out of Lake Tahoe and down the Truckee River between the two states. Since the outlet of the Truckee River begins in California and flows through two California counties crossing the Nevada state line, both states, of course, have a stake in the Truckee River water resources. Truckee River ultimately terminates in Pyramid Lake where by treaty, the Indians of the area have certain water rights. It is here that the Indian problems arise and any questions of the water rights of these Indians can only be considered in connection with Tahoe *Water* Compact. There is no involvement of the Indians in the Tahoe Regional Planning Compact.

I call to your specific attention the departmental comments filed with this committee by the Department of the Interior which is the federal agency responsible for protecting the Indian rights. In this, Undersecretary Russell Train points out on Page 2 that the Department is concerned with the rights of the Pyramid Lake Indians to the Truckee River water but emphasizes that neither this bill nor the compact, "would interfere specifically with these rights."

In order to emphasize this very point and to clarify the question as it relates to the Indians, the Department does propose, however, an additional provision which reads:

"Nothing contained in this act or in the compact consented to shall in any way affect the powers, rights, or obligations of the United States, or the applicability of any law or regulation of the United States in, over, or to the region or waters which are the subject of the compact, or in any way affect rights owned or held by or for Indians or Indian tribes subject to the jurisdiction of the United States."

Mr. Chairman, this amendment would be in addition to the flat assurance contained in the compact itself and I quote paragraph D of Section 8:

"No provision of this compact shall have any effect upon the allocation or distribution of interstate waters or upon any appropriative water right."

Certainly, on behalf of myself and our colleague Mr. Baring of Nevada, we would concur wholeheartedly in these amendments especially as it would alleviate any concern over the protection of the rights of the Pyramid Lake Indians in this matter.

Mr. KASTENMEIER. The gentleman from Connecticut.

Mr. ST. ONGE. No questions.

Mr. KASTENMEIER. The gentleman from Illinois.

Mr. MIKVA. No questions.

Mr. KASTENMEIER. The gentleman from Virginia.

Mr. POFF. Mr. Chairman, I thank the chairman and appreciate the witness' testimony. I understand that there is no objection on the part of either legislature to the amendments suggested by the Secretary of the Interior.

Mr. JOHNSON. That is true, Mr. Poff. I have letters in my files from the two Governors stating just that. And I might say that when this cleared our two legislative bodies, there was no opposition to the legislation prior to the time the Governor signed it, making it a legal piece of legislation from each State.

Now, in the water compact, that was a different story. We have never perfected the legislation in either legislature.

Mr. KASTENMEIER. If the gentleman from Virginia will yield, at this point the Chair would like to receive a letter and make it part of the record which supports the testimony of the witness on the point of the approval of the governing bodies of California and Nevada.

(The letter referred to follows:)

CALIFORNIA TAHOE REGIONAL PLANNING AGENCY,
South Lake Tahoe, Calif., October 20, 1969.

7832(A) (2)

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR SIR: At their joint meeting held October 15, 1969, the members of the Governing Bodies of the California Tahoe Regional Planning Agency and the Nevada Tahoe Regional Planning Agency (who are also the persons who will make up the Governing Body of the Tahoe Regional Planning Agency upon approval of the Tahoe Regional Planning Compact) reviewed the reports of the Agriculture Department and the Interior Department and found nothing objectionable in them, and particularly do not object to the reservations suggested to be included in the act by the Department of the Interior.

The members of the two Governing Bodies directed me further to earnestly solicit your support in pressing the legislation to approve the Tahoe Regional Planning Compact to adoption in the current session of Congress so that the work of the Tahoe Regional Planning Agency as envisioned by the compact may proceed.

Sincerely yours,

MELVIN E. BEVERLY,
Executive Officer Pro Tem, California Tahoe Regional Planning Agency.

Mr. POFF. In addition to those amendments, an amendment will be offered by the subcommittee as a matter of custom and policy, an amendment which, for the lack of a better title, I call the New York Port Authority Amendment. It gives the Congress the authority to require the planning agency to make disclosure to the Congress if the Congress sees fit to do so. Do you know whether that amendment would be acceptable?

Mr. JOHNSON. Yes; I can see no reason why it wouldn't be, because they are mandated to do that. The commission that will operate under

the agency will be responsible to the agency, and the agency, naturally, to the two States.

Mr. POFF. I thank the gentleman.

Mr. KASTENMEIER. The gentleman from Michigan.

Mr. HUTCHINSON. Thank you, Mr. Chairman. You say that at the time this particular compact was considered in both legislatures, there was no opposition expressed to it either at that time or at the time the Governor signed it. Has there been any opposition subsequently?

Mr. JOHNSON. No—well, as to this here, no, there has been nothing coming from the Governor, from the agencies. There are people who are contesting the constitutionality of the right of the legislature to perfect a compact.

Mr. HUTCHINSON. Oh; the matter is in the courts, is it?

Mr. JOHNSON. I don't know whether it is in the courts or not. Our legislative counsel has ruled on this in the State, as this matter was raised during the perfection of the legislation as it is reviewed on all legislation, and there are specific communications from them to the State bodies, both the senate and the assembly when they perfected the legislation.

As the legislation was moving through both Nevada and California, there were certain provisions in the original legislation that was introduced, but it was perfected with amendments, and when it was finally adopted in the legislature, there was no opposition to it whatever and there was nothing on record in the Governor's office, as I understand it, in opposition to it prior to his signature. That is as much as I know about it.

Mr. HUTCHINSON. But subsequent thereto, has there been some opposition expressed?

Mr. JOHNSON. There has been some; yes, because there was always some from the local area there that they wanted to continue to operate as individual entities of government; but the legislature, in perfecting the compact, provided for the joint agency that this would set up.

Prior to that time it was done by the county planning commissions, the city planning commission, under existing State law of Nevada and California. And that is where the main opposition was, that we were not getting the job done, we were not protecting the reserves, there wasn't broad enough based thinking and authority given.

That has its normal opposition wherever you try to perfect any type of legislation that would further grant rights to a planning agency or regional planning agency. We have this all over. But as far as I know, at the time when this passed, at the time it was submitted to us, and the time that the Governors approved it, and then as we went back to the Governors on the amendments as suggested by the Secretary of the Interior, we were in complete agreement.

You are never going to see everyone—and I wouldn't want to say that nor leave it for the record that everyone is satisfied, because there is known opposition to it, not so much to the planning agency as such but as to who is going to pay the bill as far as the operation of the commission that operates under the planning agency.

Mr. HUTCHINSON. The Indians—

Mr. JOHNSON. But the Indians have no opposition; no.

Mr. HUTCHINSON. I thank the gentleman.

Mr. KASTENMEIER. The gentleman from Pennsylvania.

Mr. BIESTER. I have no questions.

Mr. KASTENMEIER. There are no further questions. We are very grateful to our colleague for giving us the basic facts about this compact.

Mr. JOHNSON. I want to thank you for this opportunity and I know that all concerned will be very, very happy when this is perfected by this committee and brought to the floor and passed and we can agree between the two bodies. The President, I am sure, is well acquainted with this problem; he is waiting for the legislation to sign it.

Mr. KASTENMEIER. The Senate has already acted, and I predict there will not be much delay on the part of the House.

Mr. JOHNSON. Thank you.

Mr. KASTENMEIER. That concludes testimony on S. 118 and the identical House bill, and the committee therefore stands adjourned.

(Whereupon the subcommittee adjourned at 11:10 a.m.)

