

desire to be the world's policeman, "but we recognize a responsibility to alert the world's conscience and carry our share of the burden of deterrence and peace-keeping."

The Appeal of Conscience Foundation, founded in 1965, is an organization committed to the search for religious freedom for all faiths throughout the world.

Following the presentation of the award to Archbishop Iakovos, Rabbi Schneier read messages from President Nixon and Governor Rockefeller praising the prelate as one of the world's most effective religious leaders.

The Rev. Dr. Harold A. Bosley minister of Christ Church, Methodist, and the Rev. Thurston N. Davis, former editor of the Jesuit weekly America, are vice presidents of the Appeal of Conscience Foundation.

LCI (L) FLOTILLA II REUNION ASSOCIATION HOLDS CEREMONY IN WASHINGTON, D.C.

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BRINKLEY. Mr. Speaker, the LCI (L) Flotilla II Reunion Association is an organization of proud and patriotic veterans of World War II. Mr. L. M. Moye, a constituent from Stewart County, Ga., is the vice president of the association. Recently he called to my attention a ceremony held in Washington, D.C., on October 21, 1971, in which a ship model was presented to the Department of the Navy. I found the account of the presentation ceremony very impressive and commend it to the attention of my colleagues.

The articles follow:

LCI (L) FLOTILLA II

U.S. Navy ships numbering from 30 to 34 commissioned vessels were commissioned in the Fall of 1942 and embarked for the European theatre early in 1943.

By way of Bermuda and Arzu, North Africa this Flotilla activity engaged the enemy

across North Africa, Sicily, Italy, and later served the allied forces both British and American in the invasion of Normandy. In the spring of 1945 the American ships that survived were lend-leased to the British in Scotland and the crews were returned to the United States to prepare for the invasion of Japan.

After the war the men of Flotilla II have periodically convened for reunion and salutation to the men and cause which was such an important milestone in their lives. These conventions have been held in Baltimore, Pittsburgh, New York City, Chicago, Philadelphia, Cincinnati, Boston, Jekyll Island, Georgia, and Coronado Beach, California. The 1973 reunion is scheduled for London, England.

Reaffirmation of a Coronado presentation took place at the Washington Navy Yard October 21, 1971. The Vice President of LCI (L) II Association is a resident of Lumpkin, Georgia, a former reserve officer and a distinguished American. Mr. L. M. Moye participated in this presentation and we are privileged to report it to this record.

PRESENTATION SPEECH OF DEAN T. HELM, PRESIDENT, LCI (L) FLOTILLA II REUNION ASSOCIATION

Admiral L. S. Sabin (Ret.) presented Flotilla II background and record including special tribute to Capt. E. N. Wilson (deceased) successor Flotilla commander. He also introduced William L. Anderson the ship model craftsman. Subsequently Rear Admiral Hooper USN accepted the presentation for the Navy department.

Mr. Helm: Admiral Sabin, Mrs. Sabin, Admiral Delaney, Admiral Hooper, distinguished friends in the Navy, Flotilla II comrades and their families:

American history has volumes written of famous battles, of naval victories at sea but little of the success of the Navy men against great odds. The men and ships of LCI (L) Flotilla II waged war not only against a skillful and cunning enemy, but also against difficult physical elements with ship facility as a war strategy untried.

Flotilla II represented men of the Navy and their performance, the legends of Americans and their finest hour. The civilian amateurs showed that courage and determination teamed with professional leadership were proper ingredients to subdue a vicious enemy on foreign soil. Further this combination

could effectively serve and live with the armies of all nations on land and sea. In practice the American dream of victory and peace with honor was a fact not a blueprint.

Today special tribute is directed to our absent Comrades, to our beloved Admiral Sabin (who forever in naval history represents the spirit and vision of the amphibious force), and to those who continue the tradition, where we had a part. No American effort has labored harder in war and in peace with firmer dedication than the men of Flotilla II.

This presentation is not only of the skill and genius of William L. Anderson who crafted this beautiful model of his own ship, but it is also the symbolic transfer of a spirit—it is a reaffirmation to the Navy Department of the hearts and hopes of our men and their families and it is our prayer that the resolve of Flotilla II will find a firm pocket in the American Navy.

Also we would salute Admiral Hooper for the Secretary of the Navy to Admiral Jack Shanahan for his adoption and inspiration when this moment was conceived. Admiral Hooper on behalf of these comrades, for the deeds they performed, for the meaning of their lives, for a world at peace and our Navy we give thanks and pass to you for posterity Flotilla II.

DIRECTOR OF NAVAL HISTORY AND
CURATOR FOR THE NAVY DEPARTMENT,
October 28, 1971.

DEAR MR. HELM: It was a distinct privilege last Thursday to accept from you, on behalf of the Secretary of the Navy, the scale model of Landing Craft Infantry (Large) No. 10 presented by the Flotilla II Reunion Association.

The model has been accessioned into the records of the Curator as historical property and has been assigned USN Accession Number 71-482-A.

I want to express again my heartfelt thanks to you and to all members of the Association for donating this fine model to the Department of the Navy. It is a highly significant addition to our collection and one which will be seen and appreciated by a great many people in the years ahead.

We shall send you pictures when they are ready.

Sincerely yours,

EDWIN B. HOOPER,
Vice Admiral, USN (Ret.)

HOUSE OF REPRESENTATIVES—Friday, December 10, 1971

The House met at 10 o'clock a.m.
The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Seek ye the Lord while He may be found, call ye upon Him while He is near.—Isaiah 55: 6.

Almighty and Eternal God, whose blessings are for the good of men and whose benediction is the glory of life, grant that through the hours of this day we may feel Thy presence near and in the assurance of Thy spirit receive wisdom to make wise decisions and power to be true to the high principles of our American democracy.

Inspire us with a faith that never falters and a fortitude that never fails as we endeavor to be loyal to the royal within ourselves and to labor for the highest good of our beloved land.

Help us to walk along the way toward a growing national unity in which we shall be one people with liberty and justice for all.

In the spirit of Christ we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10947) entitled "An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes."

The message also announced that the Senate agrees to the amendments of the

House to bills of the Senate of the following titles:

S. 2042. An act to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated dockets Nos. 326-D, 326-E, 326-F, 326-G, 326-H, 366, and 367 before the Indian Claims Commission, and for other purposes; and

S. 2887. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 602) entitled "An act to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., in paragraphs 7 and 10, docket No. 50233, U.S. Court of Claims, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints

Mr. MCGOVERN, Mr. BURDICK, Mr. METCALF, Mr. FANNIN, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10604) entitled "An act to amend title II of the Social Security Act to permit the payment of the lump-sum death payment to pay the burial and memorial services expenses and related expenses for an insured individual whose body is unavailable for burial," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. ANDERSON, Mr. TAMMAGE, Mr. CURTIS, and Mr. MILLER to be the conferees on the part of the Senate.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11309 to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11309, with Mr. BOGGS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. BOGGS). When the Committee rose on yesterday, the Clerk had read the first section of the committee amendment in the nature of a substitute, beginning on page 14, line 19. The Clerk will read section 2.

The Clerk proceeded to read:

Mr. PATMAN (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with and that it be printed in the RECORD at this point and open to amendment at any point.

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

Mr. GROSS. Mr. Chairman, reserving the right to object, did the gentleman say further reading of the bill?

Mr. PATMAN. Yes; of the substitute amendment, which under the rules of the House is being read as an original bill for the purpose of amendment. I ask unanimous consent that the further reading of it be dispensed with.

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

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

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

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

[Roll No. 454]

Abourezk	Edwards, La.	Mollohan
Alexander	Ellberg	Moorhead
Anderson,	Erlenborn	Morse
Tenn.	Esch	Nix
Andrews, Ala.	Evans, Colo.	Powell
Annunzio	Evins, Tenn.	Pryor, Ark.
Ashbrook	Foley	Purcell
Baring	Ford,	Rangel
Belcher	William D.	Reuss
Bell	Fuqua	Roncalio
Bevill	Galifianakis	Rooney, N.Y.
Bingham	Gallagher	Rosenthal
Blackburn	Goldwater	Rostenkowski
Blanton	Gray	
Blatnik	Green, Pa.	Runnels
Boland	Griffiths	Scherle
Bow	Gude	Scott
Bray	Hagan	Selberling
Broomfield	Hammer-	Sisk
Broyhill, Va.	schmidt	Spence
Carey, N.Y.	Harsha	Springer
Casey, Tex.	Hébert	Stanton,
Celler	Helstoski	James V.
Chisholm	Hicks, Wash.	Steed
Clark	Jarman	Steiger, Ariz.
Clay	Kluczynski	Stokes
Collins, Ill.	Lloyd	Sullivan
Colmer	Lujan	Talcott
Conyers	McCormack	Teague, Tex.
Corman	McKevitt	Thompson, N.J.
Culver	Macdonald,	Tierman
Dellums	Mass.	Udall
Dent	Martin	Veysey
Derwinski	Metcalfe	Whalley
Diggs	Mikva	Williams
Dowdy	Mills, Md.	Wilson, Bob
Eckhardt	Mink	Wright
Edmondson	Minshall	Wydlar

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11309, and finding itself without a quorum, he had directed the roll to be called, when 322 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. PATMAN) rise?

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that the further reading of the committee substitute amendment be dispensed with and that it be printed in the RECORD at this point and be open to amendment at any point.

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

There was no objection.

The remainder of the committee amendment in the nature of a substitute is as follows:

ECONOMIC STABILIZATION ACT OF 1970

SEC. 2. Title II of the Act entitled "An Act to amend the Defense Production Act of 1950, and for other purposes" approved August 15, 1970 (Public Law 91-379), is amended to read as follows:

"TITLE II—COST OF LIVING STABILIZATION

"§ 201. Short title

"This title may be cited as the 'Economic Stabilization Act of 1970'.

"§ 202. Findings

"It is hereby determined that in order to stabilize the economy, reduce inflation, minimize unemployment, improve our competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize Federal taxes and expenditures, prices, rents, wages, salaries, dividends, and interest. The adjustments necessary to carry out this program require prompt judgments

and actions by the executive branch of the Federal Government. Further, it is the sense of the Congress, that consistent with the purposes of this title, the President should make every effort to reduce Federal expenditures and taxes by submitting a balanced budget in an effort to stabilize the economy and eliminate the need for the exercise of any controls under this title. The President is in a position to promptly and effectively implement the program authorized by this title.

"§ 203. Presidential authority

"(a) The President is authorized to issue such orders and regulations as he may deem appropriate, accompanied by a statement of reasons for such orders and regulations, to—

"(1) stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970, or at such other levels as the President may deem appropriate to achieve orderly economic growth and otherwise carry out the purposes of this title;

"(2) stabilize Federal expenditures; and

"(3) stabilize interest rates and finance charges in connection with the extension of credit, and corporate dividends and similar transfers, at levels consonant with orderly economic growth.

Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

"(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates and finance charges in connection with the extension of credit, corporate dividends, and similar transfers which are consistent with the purposes of this title and orderly economic growth. Such standards shall—

"(1) be generally fair and equitable;

"(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

"(3) take into account changes in productivity and the cost of living, as well as such other factors consistent with the purposes of this title as are appropriate;

"(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

"(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

"(c) (1) The authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefits offered in connection with an employment contract) to a level below that which has been agreed to in a contract which (A) related to such wage or salary, (B) has been executed prior to August 15, 1971, and (C) is scheduled to take effect after November 13, 1971, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(2) The President shall promptly take such action as may be necessary to permit the payment of any wage or salary increase (including any insurance or other fringe benefit offered in connection with an employment contract) which (A) was agreed to in an employment contract executed prior to August 15, 1971, (B) was scheduled to take effect prior to November 14, 1971, and (C) was not paid as a result of orders issued under this title, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(d) Notwithstanding any other provision of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

"(e) Whenever the authority of this title is implemented with respect to significant segments of the economy, the President shall require the issuance of regulations or orders providing for the stabilization of interest rates and finance charges, unless he issues a determination, accompanied by a statement of reasons, that such regulations or orders are not necessary to maintain such rates and charges at levels consonant with orderly economic growth.

"(f) The authority exercised under this title shall not be exercised with respect to a plan which meets the requirements of section 401(a) or 404(a)(2) of the Internal Revenue Code of 1954 or with respect to an annuity contract described in section 403(b) of the Internal Revenue Code of 1954.

§ 204. Delegation

"The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he deems appropriate, or to boards, commissions, and similar entities composed in whole or in part by members appointed by the President to represent different sectors of the economy and the general public. The President, in carrying out his authority under this title, shall establish a board for the purpose of studying, evaluating, and reporting quarterly to the Congress on the relationship between excess profits, the stabilization of the economy, and the creation of new jobs. Where such boards, commissions, and similar entities are composed in part of members who serve on less than a full-time basis, legal authority shall be placed in their chairmen, who shall be employees of the United States and who shall act only in accordance with the majority vote of members. Nothing in section 203, 205, 207, 208, or 209 of title 18, United States Code, shall be deemed to apply to any member of such board, commission, or similar entity who serves on less than a full-time basis because of membership on such board, commission, or entity. Members who serve on less than a full-time basis shall be compensated from the date of their appointment at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the board, commission, or similar entity. Funds of departments and agencies of the United States shall be available for the performance of any function so delegated and, at the direction of the President, any other functions performed under authority of this title.

§ 205. Confidentiality of information

"All information reported to or otherwise obtained by an agency exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers, agencies, boards, commissions, or similar entities empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title; and except that disclosure may be made to Federal executive departments, agencies, and other establishments of the Federal Government under regulations promulgated by the President or his delegate for use in any matters officially before them.

§ 206. Subpoena power

"The head of the agency or his duly authorized agent shall have authority, for any purposes related to this title, to sign and is-

sue subpoenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as is paid to witnesses in the courts of the United States. In case of refusal to obey a subpoena served upon any person, firm, association, or corporation under the provisions of this section, the head of the agency may request the Attorney General to seek the aid of the district court of the United States for any district in which such person, firm, association, or corporation is found to compel such person, firm, association, or corporation after notice to appear and give testimony, or to appear and produce documents before the agency.

§ 207. Administrative procedure

"(a) The functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act (sections 551 et seq., title 5, United States Code), except as to the requirements of section 552 of title 5, United States Code.

"(b) (1) Notwithstanding the provisions of subsection (a), with respect to any board, commission other entity carrying out functions under this title, general notice of proposed rulemaking shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

"(A) a statement of the time, place, and nature of public rulemaking proceedings;

"(B) reference to the legal authority under which the rule is proposed; and

"(C) either the terms of substance of the proposed rule or a description of the subjects and issues involved.

This subsection does not apply—

"(i) to interpretative rules, general statements of policy, or rules of organization, procedure, or practice; or

"(ii) when for good cause it is found (and there is incorporated the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

After notice required by this subsection, interested persons shall be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, there shall be incorporated in the rules adopted a concise general statement of their basis and purpose. The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

"(a) a substantive rule which grants or recognizes an exemption or relieves a restriction;

"(b) interpretative rules and statements of policy; or

"(c) as otherwise provided for good cause found and published with the rule.

Interested persons shall be given the right to petition for the issuance, amendment, or repeal of a rule.

"(2) Notwithstanding the provisions of subsection (a), with respect to any board, commission, or other entity carrying out functions under this title, prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any proceeding under this title. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

§ 208. Sanctions; criminal fine and civil penalty

"(a) Whoever willfully violates any order

or regulation under this title shall be fined not more than \$5,000 for each violation.

"(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than \$2,500 for each violation.

§ 209. Injunctions and other relief

"Whenever it appears to any officer, department, agency, board, commission, or similar entity authorized by the President to exercise authority under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any such order or regulation, it may request the Attorney General to bring an action, in the appropriate district court of the United States, to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any order or regulation issued under this title. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any order or regulation issued under this title.

§ 210. Suits for damages or other relief

"(a) Any person suffering legal wrong because of any act or practice arising out of this title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, and/or damages.

"(b) In any action brought under subsection (a) against any person renting property or selling goods or services who is found to have overcharged the plaintiff, the court may, in its discretion, award the plaintiff reasonable attorney's fees and costs, plus whichever of the following sums is greater:

"(1) an amount not more than three times the amount of the transaction upon which the action is based, or

"(2) not less than \$100 or more than \$1,000; except that in any case where the defendant establishes that the overcharge was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error the liability of the defendant shall be limited to the amount of the overcharge. Provided, That where the overcharge is not willful no action for an overcharge may be brought by or on behalf of any person unless such person has first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within ninety days from the date of the presentation of such claim.

"(c) For the purposes of this section, the term 'overcharge' means the amount by which the consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling under regulations or orders issued under this title.

§ 211. Judicial review

"(a) TEMPORARY EMERGENCY COURT OF APPEALS.—

"(1) CREATION.—There is hereby created a court of record of the United States to be known as the Temporary Emergency Court of Appeals.

"(2) MEMBERSHIP.—From among the judges of the United States district courts and United States courts of appeals, the Chief Justice of the United States shall designate not less than three such judges to serve as members of the Temporary Emergency Court of Appeals. The Chief Justice of the United States may from time to time (A) designate additional judges of the United States district courts and United States courts of appeals to serve as members of the Temporary Emergency Court of Appeals, and (B) revoke prior designations.

"(3) **CHIEF JUDGE.**—From among the judges who are designated to serve as members of the Temporary Emergency Court of Appeals, the Chief Justice of the United States shall from time to time designate one such judge to serve as the chief judge of such Temporary Emergency Court of Appeals.

"(4) **DIVISIONS.**—The chief judge of the Temporary Emergency Court of Appeals may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court.

"(5) **SEAL; SESSIONS; CLERK.**—The Temporary Emergency Court of Appeals shall have a seal, hold sessions at such places as it may specify, and shall appoint a clerk and such other employees as it deems necessary or proper.

"(6) **PROCEDURE.**—The Temporary Emergency Court of Appeals shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases.

"(7) **POWERS.**—Except as otherwise limited in this section, the Temporary Emergency Court of Appeals shall have the powers of a United States court of appeals with respect to the jurisdiction conferred on it by this title.

"(b) **JURISDICTION.**—

"(1) **UNITED STATES DISTRICT COURTS.**—Except as otherwise provided in paragraph 2 (B), the United States district courts shall have exclusive original jurisdiction of cases and controversies arising under this title and under regulations and orders issued under this title.

"(2) **TEMPORARY EMERGENCY COURT OF APPEALS.**—

"(A) **APPEALS.**—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from United States district courts in cases and controversies arising under this title and under regulations or orders issued under this title, except as otherwise provided in this section. Such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(B) **CERTAIN CONSTITUTIONAL QUESTIONS.**—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title and any regulation or order issued under this title.

"(3) **SUPREME COURT REVIEW.**—Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28 of the United States Code.

"(4) **OTHER COURTS.**—Except as provided in this section, no Federal, State, or local court shall have jurisdiction or power to (A) consider the constitutional validity of any provision of this title or any regulation or order issued under this title, (B) stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title authorizing the issuance of any such regulation or order, or any provisions of any such regulation or order, or (C) restrain or enjoin the enforcement of any provision of this title or any regulation or order issued under this title.

"(c) **PARTICULAR PROCEEDINGS.**—

"(1) **SUBSTANTIAL CONSTITUTIONAL ISSUE.**—With respect to any civil action brought in connection with this title, or any regulation or order issued under this title, which is determined by the United States district court in which it is brought to in-

volve a substantial constitutional issue, such district court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include (A) requiring that the entire record be sent up for determining of the entire matter in controversy, or (B) remanding the matter to the certifying court with binding instructions on the issues certified.

"(2) **DECLARATORY JUDGMENTS.**—The provisions of section 2201 of title 28 of the United States Code, relating to declaratory judgments, shall apply to actions arising under this title and under regulations and orders issued under this title, notwithstanding the amount in controversy.

"(d) **SETTING ASIDE REGULATIONS AND ORDERS.**—

"(1) **REGULATIONS.**—No regulation issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation is in excess of the issuing agency's authority or is arbitrary or capricious.

"(2) **ORDERS.**—No order issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the issuing agency's authority, or is based upon facts which are not supported by substantial evidence.

"(e) **INTERLOCUTORY DECREES; PERMANENT INJUNCTIONS; ETC.**—

"(1) **INTERLOCUTORY DECREE.**—The Temporary Emergency Court of Appeals shall not have the power to issue any interlocutory decree staying or restraining, in whole or in part, any provision of this title or the effectiveness of any regulation or order issued under this title.

"(2) **PERMANENT INJUNCTIONS.**—A permanent injunction restraining the enforce, operation, or execution of this title or any regulation or order issued under this title shall not be granted by any United States district court or judge thereof. Such an injunction may be issued by the Temporary Emergency Court of Appeals upon appeal, or, after hearing, upon recommendation of a United States district court or judge thereof. Such an injunction may also be issued by the United States Supreme Court as provided for by this section.

"(3) **EFFECTIVENESS OF CERTAIN JUDGMENTS OF TEMPORARY EMERGENCY COURT OF APPEALS.**—The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside, in whole or in part, any provision of this title or any regulation or order issued under this title shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (b) (3) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

"(f) **APPLICATION OF SECTION.**—The provisions of this section shall apply to any actions or suits pending in any Federal, State, or local court on the effective date of this section in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

"§ 212. **Personnel**

"(a) Any agency or officer of the United States Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this title.

"(b) The President may appoint five officers to be responsible for carrying out functions of this title of whom three shall be compen-

sated at level III of the Executive Schedule (5 U.S.C. 5314) and two at level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

"(c) The President may require the detail of employees from any executive agency to carry out the purpose of this title.

"(d) The President is authorized to appoint, without regard to civil service laws, such advisory committees as he may deem appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(e) (1) Under such regulations as the President may prescribe, officers and employees of the United States Government who are appointed without a break in service of one work day or more to any position for carrying out the functions of this title may be entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

"(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336(c), title 5, United States Code, shall continue to be covered thereunder while carrying out the functions of this title.

"§ 213. **Experts and consultants**

"Experts and consultants may, as authorized by section 3109 of title 5 of the United States Code, be employed for the performance of functions under this title and individuals employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5 of the United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code, section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees.

"§ 214. **Mass transportation systems**

"No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities shall increase any fare without first obtaining approval under this section from the President or his delegate.

"§ 215. **Local protest boards**

"(a) The President shall establish local protest boards throughout the United States in connection with any procedure he provides for the granting to persons of exemptions from, and the making of changes in, regulations and orders issued under this title.

"(b) It shall be the function of such local protest boards to receive complaints and advise appropriate persons with respect to the need for exemptions from, or changes in, regulations and orders issued under this title. The President shall establish such local protest boards in such manner and organize them into such system so as to provide expeditious review of complaints and, when appropriate, speedy remedial action on the

part of the President. No court hearing a matter brought in connection with this title or any regulation or order issued under this title shall require, as a prior condition to the bringing or carrying forward of a legal action, that a party proceed under a procedure established pursuant to this section.

"(c) In establishing such local protest boards, the President may draw upon the resources of the Internal Revenue Service or any other appropriate establishment in the executive branch of the Government, or any combination of such establishments, which can provide the necessary personnel and local facilities.

"§ 216. Pay contracts entered into prior to August 15, 1971

"Notwithstanding any other provision of this title, effective November 15, 1971—

"(1) the authority conferred on the President by this title shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefit offered in connection with an employment contract) to a level below that which has been agreed to in a contract which (A) related to such wage or salary, and (B) has been executed prior to August 15, 1971; and

"(2) the President shall promptly take such action as may be necessary under this title to require the payment of any increases in wages and salaries (including any insurance or other fringe benefit offered in connection with an employment contract) which were agreed in employment contracts executed prior to August 15, 1971, but which were not paid between August 15, 1971, and November 15, 1971, as a result of his Executive Order 11615, issued August 15, 1971, relating to the freeze on prices, wages, and salaries.

This section shall not apply in the case of any wage or salary contract which the President determines has the effect of increasing wages or salaries in the industry or segment of the economy to which it applies at a rate which is unreasonably inconsistent to the rate at which wages or salaries have increased in the economy generally.

"§ 217. Funding

"(a) There is hereby authorized to be appropriated to the President, to remain available until expended, such amounts as may be necessary from time to time to carry out the purposes of this title.

"(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

"§ 218. Expiration

"The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1973, but such expiration shall not affect any action or proceeding proceeding, civil or criminal, not finally determined nor any action or proceeding based upon an act or acts committed prior to May 1, 1973.

"§ 219. Ratification

"The authority granted to the President by the Economic Stabilization Act of 1970, as amended, and in effect on the date of enactment of this title, in respect to the assignment of personnel and expenditure of funds in exercising that authority are hereby approved, ratified, and confirmed.

"§ 220. Severability

"If any provision of this title or the application of such provision to any person or circumstances shall be held invalid, the remainder of the title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

AMENDMENT OFFERED BY MR. STEPHENS

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

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: On page 17, strike line 24 and all that follows through line 10 on page 18; on page 35 strike line 23 and all that follows through line 23 on page 36 and insert in lieu thereof on page 17 after line 23 the following:

"(2) Beginning on the date on which this subsection takes effect, the President shall promptly take such action as may be necessary to permit the payment of any wage or salary increases (including any insurance or other fringe benefits offered in connection with employment) which have been, or in the absence of this subsection would be, withheld under the authority of this title, if the President determines that—

"(A) such increases were provided for by law or contract prior to August 15, 1971; and

"(B) prices have been advanced, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases."

Renumber the sections properly as necessary.

Mr. STEPHENS. Mr. Chairman, in explanation of the amendment I have offered today, I would like to start out by saying that my amendment is a compromise between two extreme positions on the freeze that has taken place on the question of whether or not retroactive wages will be paid. As I have said, it is a compromise between the language of the bill when it came into our committee and the amendment that is now in the bill. Those are the two extremes.

Prior to what the committee did on the amendment offered by the gentleman from New Jersey (Mr. MINISH) no right was provided in the bill for a retroactive pay agreement to be put into effect which would pick up the wage increases that had been promised but were cut off from the 15th of August to the 15th of November. The amendment which was offered in the committee and is now language in the bill provides that everyone who would receive a pay increase through an agreement would get that pay increase. The other extreme position was that they would not get it at all. The Minish amendment provides that everybody would get it.

My amendment would put some limitations which would bring the pendulum back to a more or less middle position. If we should adopt the language now in the bill, we might just as well never have had any freeze at all, because it will put into the economy all the funds that were withheld by the freeze. If you do that, you will hurt some small and some large businesses all over this country, because when you say to a company that they must pay a wage increase that was agreed to before the freeze, but as a result of the freeze the company cannot make any price adjustments of any kind to earn what would be necessary to pay the wage increases, then you are going to say to them also, "We are going to force you into bankruptcy or you are going to have to extend your credit. You will have to go into your capital to pay a lump sum in retroactive pay."

There are circumstances which my amendment takes care of in which by right the pay increase ought to be made, the pay adjustment ought to be made, and those are circumstances in which there was an agreement that a wage adjustment be made and where prices had been raised for the purpose of paying the

wage increase that was cut off by the freeze. The company would have received the profits from a price increase but still cannot pay the wage increase. It is not right for the profits to be held, profits which consumers have paid for, and which were supposed to go to pay the wage increase. Such increases ought to be paid, and my amendment would allow them to be paid.

To go over into the field of public affairs, the second thing that my amendment would do is that where an increase was agreed to and the necessary statutory or budgetary appropriations, or whatever you might call them in the area of monetary affairs, have been set in motion, then that money should not be held in the Treasury or diverted to some other purpose when it is supposed to go to pay raises.

There are alternative features so far as the amendment is concerned that should be clear. If not, I shall entertain questions. The language of the bill has been very carefully worked out and studied by the gentleman from Florida (Mr. CHAPPELL). We were never able to give it complete consideration in our committee. I believe that the language of the amendment will keep inequities from happening which will happen if we do not change the bill as it now is.

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

Mr. STEPHENS. I yield to the gentleman from Pennsylvania (Mr. BARRETT), a member of the committee.

Mr. BARRETT. I think every Member of the House knows that the gentleman from Georgia is one of the most capable members of the Committee on Banking and Currency and also a most capable member of my Housing Subcommittee.

Mr. STEPHENS. I am glad I yielded to the gentleman.

Mr. BARRETT. We have great respect for the gentleman but with all due respect to the gentleman from Georgia I want to ask him: Does this not actually water down the Minish amendment?

Mr. STEPHENS. No, not really. What it does is take the inequities out of it. It takes the unfair element out of it.

Mr. BARRETT. Does it not do unjustifiable harm to the teachers' contracts and prevent them from getting the proper raises on the basis of contracts made prior to August 15?

Mr. STEPHENS. In reply to that, I would say this. I do not believe there will be a change of any single teacher's situation under my amendment such as the gentleman is talking about.

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

(By unanimous consent, Mr. STEPHENS was allowed to proceed for 5 additional minutes.)

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

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

Mr. ASHLEY. With respect to the question of the gentleman from Pennsylvania (Mr. BARRETT) concerning the application of the gentleman's amendment to the teachers, is it not true the gentleman from Georgia specifies in his amend-

ment that retroactive and deferred wage increases shall be paid where there has been a tax, budgetary, or other adjustment to accommodate such pay increase?

Mr. STEPHENS. That is absolutely correct.

Mr. ASHLEY. It is my understanding that with respect to the teachers, both those under contract and those not under contract, about 98 percent would be covered by the first part of the gentleman's amendment. Therefore, I would say the amendment of the gentleman from Georgia, unlike the Minish approach contained in section 216, much more directly takes care of the situation involving the teachers and others in like circumstances.

Mr. STEPHENS. The language that the gentleman from Ohio (Mr. ASHLEY) is referring to is:

(A) such increases were provided for by law or contract prior to August 15, 1971; and (B) prices have been advanced, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

That takes care of every teacher, I believe.

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

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

Mr. BARRETT. Mr. Chairman, I just want to refer to the statement of the gentleman from Ohio. Would this not take it out of the hands of the board and put it in the hands of the President, so he must make the final determination whether the teachers' contracts would be held valid?

Mr. STEPHENS. In answer to what the gentleman says, I point out that as a matter of right, in this amendment I offer they will have a right to demand it. It does not leave it up to the President. It is a matter of right.

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

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

Mr. ASHLEY. Mr. Chairman, let me point out that in the bill before us, where we say or where we find the "President" in most cases can be read as "pay board" because there is a section on delegation which makes it clear that the President is authorized to delegate this authority to the pay board, to the pay commission, or to other bodies which he may create. So if the gentleman is having a problem with respect to that simple matter of delegation, he should not have.

Would not the gentleman from Georgia agree with me that this is no point of concern? What is of concern is the fact that the Stephens' language much more directly takes care of the situations confronted by the teachers of this country than does the language of the gentleman from New Jersey (Mr. MINISH) in section 216.

Mr. STEPHENS. Mr. Chairman, let me say and repeat that so far as the teachers are concerned, I have no intention of harming the teachers, and I do not intend to harm the teachers. I think the amendment I offer gives them a better right to get what they are entitled to than does the Minish amendment. This gives them an absolute right to come in

and ask for it and get it. It is better than we have in the other language.

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

Mr. STEPHENS. I yield to the gentleman from California.

Mr. HANNA. Mr. Chairman, I appreciate the gentleman yielding.

I also appreciate the fact that the gentleman has always tried to be a constructive member of the committee and generally is trying to work out things for the best. But let me ask the gentleman a few specific questions. Supposing I am a member of a union that has negotiated a contract for an increase in wages on the basis of my increase in productivity, so there is a situation in which the company for whom I work does not have to increase the price of its products, because it has realized already a profit on my increased productivity.

Mr. STEPHENS. I understand.

Mr. HANNA. In that type of situation am I correct in assuming that the gentleman's language would not cover me, if I had negotiated a contract?

Mr. STEPHENS. It would not cover that situation, but let me point out that the reason for having the freeze was to take care of that situation.

Mr. HANNA. I beg your pardon.

Mr. STEPHENS. The reason for giving the President standby authority to put a freeze into effect was to stop the inflationary spiral under those circumstances.

Mr. HANNA. But, to clarify what I am saying—

Mr. STEPHENS. What the gentleman says is correct.

Mr. HANNA. What I say is correct; this is not inflationary, this is an increase in wages based upon an increase in productivity. It was negotiated before the 15th. It does require, to be equitable, acceptance for retroactivity.

Mr. STEPHENS. Let me answer that. What the gentleman says is right, but what we also have to take into consideration is that there is language in this bill whereby the situation—if it is reasonable, if it is one that is inequitable to leave the freeze in effect—can be taken care of. The language is still in this bill that would allow that to be brought before the necessary authorities and to be carried out.

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

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

Mr. BROWN of Michigan. In answer to the question of the gentleman from California, I believe the language does cover it, because to the extent there has been an increase in productivity there has been an increase in income, an increase in profit to that employer. The gentleman's amendment says that these retroactive wages can be paid if funds have otherwise been raised or provided for and to the extent there has been an increase in productivity obviously indirectly some funds have become available.

Mr. STEPHENS. Regardless of the language in my amendment, that situation can be taken care of.

Mr. PATMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Stephens amendment is highly dangerous not only to

longstanding legal approaches to wage matters in this Nation, but to the basic efforts of our current economic stabilization program.

The Stephens amendment is a direct contradiction of the announced goal of promoting productivity. The amendment singles out the productive worker for special penalties.

The Stephens language says that the pay increases can be paid only in those cases where it can be proven that the plant increased prices in anticipation of a wage increase. In the plants where the increased wages were to be absorbed—because of increased worker productivity—the worker would not be entitled to the pay increase. We are trying to increase productivity and here we have an amendment which encourages inflation—encourages the passing on of costs in the form of higher prices.

This amendment is a cruel joke on the teachers who have been depending on the Congress to put some equity into the wage-price program. The amendment does not require that anyone do anything about the wages that were contracted for prior to August 15. It just says that the President shall permit the employers—school district boards included—to pay the increases if they meet certain very narrow criteria. It is strictly permissive and requires nothing.

Even if the contract should meet the impossible standards of the Stephens amendment, it would still be up to the discretion of the employer to pay or not pay the increase. These contracts are now two-sided agreements between employer and employee. The Stephens amendment would tear up the contracts and convert them into one-sided arrangements—solely at the discretion of the employer—if they met the narrow standards proposed here.

Mr. Chairman, the Stephens amendment is not needed in the President's economic program. Administration spokesmen have been very candid about the minimal effect that the payment of these retroactive wages would have on the economy. I quote from a comment by Secretary of Labor James Hodgson in the New York Times of yesterday—Thursday:

Mr. Hodgson said today that the retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

There have been some rumors floating around that the Stephens amendment is acceptable to teacher groups and other organizations representing working people. These rumors are false. The Stephens amendment is not supported by these organizations or by the individual teachers and working people.

Mr. Chairman, since these rumors have come about, I want to quote a telegram I received yesterday from the National Education Association which represents 1.1 million teachers across the Nation:

On behalf of the 1.1 million members of the NEA, we thank you for your support of the provisions of section 216 of H.R. 11309, providing for retroactive payment of salaries in effect before imposition of the wage-price freeze. We solicit your continuing insistence

that this provision be included in the bill to be acted upon by the full House tomorrow. We fully support the bill—without amendment—as reported by your Committee, and hope that the House concurs.

STANLEY J. MCFARLAND,
Assistant Executive Secretary,
Government Relations and Citizenship.

Mr. Chairman, this morning, representatives of the NEA reaffirmed their stand in favor of the bill as reported from the committee in support of the Minish amendment. They are not supporting the Stephens amendment.

I also place in the RECORD a copy of a telegram from the American Federation of Teachers and from the AFL-CIO in support of the bill as reported:

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
Washington, D.C., December 9, 1971.

HON. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency,
Washington, D.C.

DEAR MR. CHAIRMAN: The AFL-CIO supports H.R. 11309, the Economic Stabilization Bill as it was reported from the House Banking and Currency Committee. The AFL-CIO would have preferred that Congress provide the authority only to May 1, 1972 so as to allow for a re-examination after six months of Phase Two's operations. Further, while this measure does not provide machinery to control profits as we had asked to insure equality of sacrifice, it does provide presidential authority to control dividends, interest rates, rent and prices along with wages and salaries. We urge that the measure be adopted.

Sincerely,

ANDREW J. BIEMILLER,
Director,
Department of Legislation.

DECEMBER 8, 1971.

DEAR CONGRESSMAN: The American Federation of Teachers, AFL-CIO, strongly urges that you support H.R. 11309, the bill to extend the Economic Stabilization Act, as reported by the House Committee on Banking and Currency.

This bill in its current form is a much needed measure that will correct many of the inequities of both the freeze and Phase II program. H.R. 11309 is of special importance to teachers.

Its enactment will in some measure compensate teachers for the gross injustice which the wage freeze inflicted upon them. We respectfully urge your support of H.R. 11309 as recommended by the Banking and Currency Committee.

Sincerely,

DAVID SELDEN,
President,
American Federation of Teachers.

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

Mr. Chairman, I rise in support of the Stevens amendment.

Mr. Chairman, we have had this bill under consideration for many weeks in our committee. We finally reported it out although there was considerable disagreement with respect to the Minish amendment. It was finally included by a one-vote margin in the committee, and that was after it had been voted down by a committee vote prior to that time.

Mr. Chairman, I think we have given very weighty thought to the problem at hand.

We recognize the opposition of the

teachers up to this time. However, I do not believe that they have been fully and favorably considered in the Stephens amendment.

I am sure that if what the chairman says is so, that no one had seen the Stephens amendment and did not know what it contained up to this time—I think I am repeating what he says—yet he has a telegram in opposition to the amendment and supporting the Minish amendment.

I, certainly, as a Member of this House feel my responsibility very heavily in doing a fair, a sound and equitable job for all of the people in this country. I do not believe that any particular group should be favored above all others.

Mr. Chairman, this amendment has been carefully gone over and its wording has been looked at by many, many Members of the House who are confident that it provides that very equity about which I am talking.

I would like to say that we think this is an amendment that can be supported by all Members of the House, whether they consider themselves pro-labor, pro-management or anything else that they want to say.

It does provide a sound basis for carrying on phase II of the President's program.

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

Mr. WIDNALL. Not at this time. I yield to the gentleman from New Jersey (Mr. HUNT).

Mr. HUNT. I thank my colleague for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from New Jersey (Mr. WIDNALL). The gentleman has really put his finger on the actual problem. Not too many people know about the Stephens amendment in the educational field. I have been talking to some of them this morning and, really, the people who have been penalized are those who will be taken care of by the Stephens amendment. The educators I talked with are in agreement with the Stephens amendment.

The teachers in my district and all over the Nation are those persons who should have received their money.

There is no penalty insofar as money is concerned because the money for the teachers' salaries that they did not get by virtue of the freeze has already been included in all of the school budgets, especially in the State of New Jersey. So the school boards themselves are not in opposition to it and the teachers are not in opposition to it.

Mr. Chairman, I feel very strongly that the teachers should receive their money because all of the contracts were entered into prior to the freeze but they were penalized when the freeze came along.

Mr. Chairman, many of our people in the educational field in New Jersey have received the money, those who are in the service positions, those who are secretaries and those engaged in administrative activities have already received their raises. The only ones who have not received them are those who are engaged in the actual teaching, who started the new teaching year in September 1971. For that reason, Mr. Chairman, I am going to sup-

port the position of the gentleman from New Jersey. I believe we should give the educators their money to which they are entitled. Therefore, I am going to support the gentleman from New Jersey in support of the Stephens amendment and I compliment the gentlemen (Mr. WIDNALL) on his fine statement.

Mr. WIDNALL. I thank the gentleman for his contribution.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

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

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

Mr. Chairman, if I understand the situation correctly, in those cases where the local school board prior to August 15 had taken some action, revenue-wise, some authorization, to increase taxes or otherwise, to pay for those increases, that the retroactive wage increases could be paid. Is that correct?

Mr. WIDNALL. That is correct.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. MINISH. Mr. Chairman, I rise in opposition to the amendment, and I move to strike the requisite number of words.

Mr. Chairman, the House of Representatives might as well face the issue of wage contracts and agreements squarely.

The Minish amendment—contained in the bill as reported by the committee—deals directly with the issue and makes it clear where everyone stands.

The Stephens amendment—which was drafted to gut the Minish amendment—sets up a series of vague requirements which leave the teachers and workers in a much worse position than if we enacted nothing.

Mr. Chairman, the Stephens amendment tears up the contracts entered into before August 15. The amendment says that the employer—the businessman and the school district—may permit the payment of these wages. It does not require the payment of the wages and it leaves this matter solely to the discretion of the employer even if the contract meets the highly restrictive standards contained in the Stephens language.

In actual practice, the Stephens amendment would place an impossible burden on teachers and workers to prove that they meet the standards. In truth, few would be able to qualify after all of these determinations have been made. And even after they qualify, it is still up to the employer to decide whether he wants to permit the increase.

The Stephens amendment also calls for a congressional endorsement of a policy which would penalize the more productive worker. The amendment says that the increases can be allowed where it is shown that prices have been raised in anticipation of the wage contract. In the plants where the wage increases are absorbed—because of increased worker productivity—the worker would not be able to qualify for his pay increase. So the efficient plant, with productive workers, would not qualify under the Stephens amendment.

This is counter to everything we are trying to accomplish in the economic stabilization program.

The Stephens amendment does nothing.

ing more than reaffirm—and ratify—the present policies of Judge Boldt's Pay Board. At the present time, the Pay Board has effectively blocked all retroactive pay increases.

The Stephens amendment picks up the basic thrust of the Pay Board and attempts to give it congressional sanction.

The teachers and working people will get nothing in the way of retroactive increases under the present Pay Board standards. The Stephens amendment changes nothing and if it is adopted we might as well be handling the teachers and the workers—who had valid contracts prior to August 15—a blank sheet of paper. The Stephens amendment is a mammoth joke on people who entered into wage agreements in good faith before anyone knew the President was planning to implement a wage-price program.

In contrast, my amendment provides two very specific guidelines on pay contracts:

First. It provides that legal contracts and agreements entered into prior to the President's August 15 announcement are valid.

Second. It provides a single exception to that guideline. It says the President—presumably delegated to the Pay Board—may stop the wage agreement if he is able to legitimately determine—on a factual basis—that the wage increase is “unreasonably inconsistent” with the rate of increase of wages in the economy generally.

In summary—the Minish amendment basically provides for validation of contracts and agreements entered into in good faith before the wage-earner had any knowledge of a freeze. At the same time, it leaves the Pay Board with the power to deal with extreme cases—where there can be a factual determination that the contracts were “unreasonably inconsistent.”

The gentleman from New Jersey, the ranking minority member of the committee (Mr. WIDNALL) said yesterday—and I will quote from the RECORD:

It would be folly for me to stand here and try to convince you those efforts have been wholly successful to date; but it would be equally foolish for any of us to think that the boards and commissions which the President has established can do any kind of a job if, and as long as, we sit up here second guessing every decision they make.

I might say further that Secretary of Labor James Hodgson said it would not have any effect; and I quote from the New York Times of Thursday, December 9:

Mr. Hodgson said today that the retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

And Under Secretary of Treasury Charles Walker said it would amount to only one-half percent of the amount they have to play with in this whole program.

If all the deferred increases were suddenly granted, we would still have used up only one-half percent of what we have to work with. Economically, we cannot say that there will be a catastrophe if the deferred increases were granted.

So I would think that the administration should support my amendment. It causes no problem for the stabilization program by the admission of the administration spokesmen themselves.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I think it would be unconscionable for us to pass legislation which would permit an employer not to pay retroactive wages where funds for the payment of such increases or wages have been raised or provisions have been made for their payment.

I think it is just as unconscionable for us to pass legislation demanding that retroactive wages or increases in wages be paid where there has been no opportunity to provide the funds for the payment of such wages due to the freeze, or that the increases were not contemplated so that the adjustment that is necessary could be made.

The chairman of our committee has spoken about the situation with respect to teachers, and I am very concerned because teachers are not only at the mercy of their employers but they are at the mercy of the taxpayers.

But, with rare, if any, exception the school districts budgets have contemplated salary increases. The school year having begun in September, the contracts were negotiated by law, the salaries were provided for prior to August 15, 1971.

The Stephens amendment specifically requires the Pay Board to permit the payment in such circumstances.

Now then—what if the funds are not available in these rare instances, if any, where there is a school district that had not contemplated and had not budgeted and had not provided for the wages of teachers; or in any industry where the same thing would be applicable?

Obviously, the only answer is, if you have got to pay the increase and pay the retroactive wages and there are not the funds to do it, there would have to be a reduction in the work force and the workers and teachers would have to be laid off so that the adjustments could be made.

Are the opponents of the Stephens amendment saying that they would rather have some teachers and some employees laid off and receive no pay and no wages than to have them working, although admittedly without the pay increases or retroactive wage?

We have to keep in mind that although the Stephens amendment relates to action that the President shall take, in effect, all of the action under the economic stabilization program is being performed by boards and commissions to whom have been delegated the authority by the President.

So when you say that the President shall require—or the President shall take action to permit this, it means the Pay Board—it means the Pay Board cannot adopt an impediment to the payment of these wages or salaries, if the conditions set forth in the Stephens amendment are met.

The Stephens amendment says that if funds have been contemplated for pay-

ment of such wages or retroactive wages, then the Pay Board may not impose any impediment to the payment and may not impose any impediment to the employers' obligations to comply with such contract.

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

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. GONZALEZ. The reason I have interrupted the gentleman, and I hate to do that, is I do want to clarify something about which there is some disagreement here.

What you said a minute ago contradicts what you said which was that the Stephens amendment “would or may be required”—you use the word “require”—the Pay Board to grant this.

Mr. BROWN of Michigan. I will repeat what I said.

Mr. GONZALEZ. Now you are saying they will “permit.” There is a difference between a requirement and a permissive grant, which is what the Stephens amendment provides.

Mr. BROWN of Michigan. If the gentleman will once again listen, I will repeat what I said the first time. I said the Stephens amendment specifically requires the Pay Board to permit the payment in such circumstances. That is exactly what I said before. In effect this amendment takes away the possibility of the Pay Board imposing any impediment under the controls on a contract that was in existence on August 15, 1971, where the funds are available and the circumstances have been met.

Mr. GONZALEZ. Now, just a moment. How can you say that the Stephens amendment requires—requires—the Pay Board to permit? It is either a mandate or a permission. You cannot have it both ways.

Mr. BROWN of Michigan. It is just exactly that. The Stephens amendment requires the Pay Board to permit these retroactive wages to be paid under a contract which is in existence. In other words, the Pay Board may not impose itself on an impediment to the contractual obligation of the parties.

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

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

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

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. KAZEN. We have a situation in my State where the fiscal year ends on August 31. The legislature of my State granted increases to State employees and to the schoolteachers for the term beginning September 1. Since the fiscal year ends on August 31, I am wondering whether under the Stephens amendment there was or was not a contract on August 15. What is your interpretation?

Mr. BROWN of Michigan. I do not know your State law—

Mr. KAZEN. It is very simple. The fiscal year begins on September 1. The legislature passed an act to become effective on September 1 granting an increase

to my State employees and to my teachers. If you are going to say that that law was not in effect on August 15, then they are knocked out of any increase.

Mr. BROWN of Michigan. No. Let me clarify this. First of all, what we are talking about here is an affirmative obligation. It is an affirmative obligation. In effect it says the Pay Board may not impose an impediment to the payment of these wages. This does not mean that the Pay Board has to in other circumstances impose such an impediment. So you are not taking away the authority from the Pay Board to do exactly what you think should be done, and that is to have those increases become effective on September 1, and retroactive through September 1. The Pay Board still has that authority. What the Stephens amendment does is to impose a further obligation upon the Pay Board to permit those contracts to go into effect when the circumstances are met.

Mr. KAZEN. The "circumstances met" is that that contract be in effect on August 15.

Mr. BROWN of Michigan. No, no. The gentleman is not listening. The Stephens amendment imposes a further obligation, an affirmative obligation upon the Pay Board, and that is under these circumstances to permit the contract to go into effect.

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

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Rhode Island is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Chairman, in answer to the question of the gentleman from Texas, the Stephens amendment is very clear. It has two conditions. One is that such increases be provided for by law or contract prior to August 15, 1971.

Mr. KAZEN. In our situation the legislature provided for it prior to August 15, but the act does not take effect until September 1.

Mr. ST GERMAIN. Just a minute. I would like to speak a few minutes before I yield. Let us take a look at the Stephens amendment. The Stephens amendment says that the increases will be permitted if the President determines that—

(A) Such increases were provided for by law or contract prior to August 15, 1971.

The section reads—

(2) Beginning on the date on which this subsection takes effect, the President shall promptly take such action as may be necessary to—

And here is the rub. The original Stephens amendment read—

... to require the payment of any wage or salary increases ...

Now perhaps we could have lived with that. However, the word "require" has been stricken and has been replaced by the word "permit" which brings us back to the situation we are in right now without the adoption of legislation. It is permissive. The Pay Board has had this authority all along. This makes no change whatsoever in the existing situ-

ation. It merely reaffirms the existing situation.

And I might say this. Just yesterday, on December 9, Mr. Hodgson said:

That the retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

Further, in addition to Secretary Hodgson's statement, there was an earlier statement by Under Secretary of the Treasury Charles Walker who supported the provisions of the Minish amendment as reported by the House Banking and Currency Committee.

Secretary Walker has said that allowance of all deferred pay increases provided by contracts negotiated prior to the implementation of the Phase I program on August 15, 1971, would have little if any impact on the President's economic stabilization program.

Mr. Chairman, the Minish amendment is right in line with the statements of these administration leaders. The Minish amendment in H.R. 11309 would require the payment of wage and fringe benefit increases contained in labor contracts negotiated prior to August 15, 1971, unless the President finds such increases to be unreasonably inconsistent with wage increases that have been generally made in the economy at the time these agreements were being negotiated. Is this not almost exactly what Secretary Hodgson said the administration expected would have to be done regarding initial contracts approved under the phase II program? How can the President under these circumstances support his position of all but barring wage increases negotiated in contracts prior to phase I but not scheduled to be implemented until after the start of phase I on August 15?

If the Secretary of Labor declares that it is a simple matter of justice to depart from the phase II wage guidelines during the initial months of that program, then it is no less equally just and equitable that we adopt the Minish amendment as it was reported from the House Banking and Currency Committee in H.R. 11309.

That amendment reflects acknowledgment of the fact that wage contracts negotiated prior to the start of phase I reflect cost-of-living increases that had occurred prior to settlement and ratification. To bar these increases, and allow the cost rises that these contracts were designed to meet to remain unchanged, is to impose a harsh and utterly discriminatory penalty on millions of workers and schoolteachers throughout the Nation.

The President, by his decision to bar these increases, singled out wage contracts to the exclusion of all other agreements for sacrifice in the phase II program. He did not place any restrictions on mortgage contracts that were implemented at the time with near record high interest rates of 8 percent and more. He did not restrict provisions in installment loan contracts carrying interest rates of 18 percent, 24 percent, and 36 percent. He did not bar any of the provisions of small loan contracts which are notorious for their high interest charges.

Moreover, the workers who were to benefit from these wage increases have every right to receive them. The good faith negotiations which resulted in these pay raises were conducted without the slightest idea that the President was going to utilize the authority of the Economic Stabilization Act. Consequently, the beneficiaries of these contracts made important financial commitments based on the expectation that their pay increases would allow them to afford them. Commitments like the purchase of new homes and household items. Commitments like borrowing to receive medical treatment that could now be afforded due to the wage increases provided by these agreements. Commitments like borrowing to allow children to go to college and technical school.

To prevent these workers from receiving the benefits of these wage contracts would be the grossest injustice.

Mr. Chairman, I am greatly relieved that Secretary Hodgson agrees with this position. I am happy that Under Secretary Walker has said that allowing the increases provided by these contracts would make little difference to the phase II program. With that kind of support, we can do no less than adopt the Minish amendment as it is contained in the bill reported out of the Banking and Currency Committee.

Let me turn to another point. It has been said here that the teachers really do not know what this is all about, and therefore cannot be in opposition to the Stephens amendment. All we have to do is to walk out into the hallway and there the teachers will greet the Members and inform them of the fact that the teachers can read. They know the English language. It is their mission in life to teach and to understand words and the wording of this amendment is very clear. It says "permit" and it does not say "require." So the people who expected these increases and who had entered into contracts legitimately and legally and who subsequently bought homes and committed themselves to educating their children and probably went into hospitals or undertook other medical care which they had deferred prior to that, undertook these things on the expectation of the pay increases, but they have been denied these increases.

The Minish amendment and those who support it, as opposed to the Stephens amendment, take the view that these people are entitled to that which they have contracted for legitimately.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the gentleman from Rhode Island will be willing to continue the discussion on the Stephens amendment, I wish to call another point to the Members' attention. First of all I think the gentleman from Rhode Island was correct in pointing out that there were two provisions in the Stephens amendment, but he failed to read to the body the second part of those provision which states, that if the President determines:

Prices have been advanced, taxes have been raised, appropriations have been made, ... or funds have otherwise been raised or provided for in order to cover such increases.

Let us talk about the teachers in New Jersey, just mentioned. The gentleman has already stated that the New Jersey Legislature acted.

Mr. ST GERMAIN. It was Texas.

Mr. ROUSSELOT. I respectfully disagree. The gentleman from New Jersey was complaining about the problem of teachers in New Jersey. The New Jersey body has acted legislatively. They have appropriated the money for the teachers, and if that money has been appropriated, then the pay raise would be granted under the Stephens amendment language. So the gentleman has failed to point out one of the most important aspects of the Stephens amendment. That is part (2) (B) which outlines the various conditions I have stated.

Mr. ST GERMAIN. If the gentleman will yield, excuse me, the Stephens amendment says that the President can permit—it is permissive—he can permit these increases to take effect.

It does not say he must. The original Stephens amendment said the President is required, but there was halfway across the ballfield a change, and the wording is changed to "permit."

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

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

Mr. ASHLEY. Let us clear up this almost deliberate misunderstanding. The gentleman from Rhode Island is a lawyer and he knows perfectly well under this language, beginning on the date on which this subsection takes effect, "The President"—and let us read that "The Pay Board"—shall promptly take such action, and let us say that "shall" means "require." Then we can say that beginning on the date on which the subsection takes effect, the President, that is, the Pay Board, is required to do this.

Mr. ST GERMAIN. Excuse me—it is "require."

Mr. ASHLEY. Let us follow the language.

It reads that the President shall promptly take such action. This is the Stephens language. The President can direct the Pay Board. We can add that the Pay Board shall promptly take such action. We can agree that "shall" means required, so we can arrive at this language:

Beginning on the date on which this subsection takes effect, the President—that is, the Pay Board—shall—that is, is required—promptly take such action as is necessary to permit the payment of any wage or salary increase.

The Pay Board is mandated to permit such increases as are covered by the Stephens amendment. This is the point. This is not permissive language. This is about as mandatory as can be.

Mr. ROUSSELOT. I believe the gentleman from Ohio has stated it very concisely. He has been intimately involved in the drafting of this legislation. I believe he has restated the point I was trying to make; that is, that those wage increases which have been granted under the appropriation process are very precisely covered and the Board must perform under this language. I believe the gentleman from Ohio has made this very clear.

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

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

Mr. STEPHENS. In explanation of what this argument is about, let me point out that if we use the word "permit" it sounds as if we are making it permissive, but we have to take into consideration the language which precedes it, which says "he shall permit," this means if somebody comes in and puts these facts before him, then he gets the pay raise. If they cannot put the facts before him, of course, that is a different proposition. But it says he shall permit them to grant this as a matter of right.

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

Mr. ROUSSELOT. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I should like to say to the Members of the House and the gentleman from Rhode Island in particular, though I am not a lawyer I believe it is pretty clear that a contract is law. That refers to a contract between a town and a teacher or between a city or a State and its employees.

Once this is agreed to and comes into law by any action of a legislative body, the only thing that could defer it was the action of the board.

This amendment very clearly states that that action will be taken away; that they shall permit this. Then the law which in this case is the contract, and the law that is the State law, automatically takes over. The minute a town says it is going to pay a teacher, even though that pay raise may not come into effect for 2 months, or even though the increase in taxes may not take place for 7 months, they have committed themselves to a counteraction which must take place by State law, and I do not believe there is a State in the 50 States in this Union which says that any town or State may willingly go into a deficit position. The simple fact is that every State or local employer in this country, who has been given a valid contract, has become a part of the law. The amendment states quite clearly that the President shall—meaning must or will—permit these laws to go into effect.

Mr. BRASCO. Mr. Chairman, I rise in opposition to the Stephens amendment.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

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

Mr. BRASCO. I yield to the chairman of the committee.

Mr. PATMAN. I should like to know how we stand as to whether or not we have heard enough debate on this. We are trying to get through here today, and we will have to limit some of these amendments. I wonder how many Members who have not spoken on this before would like to speak? I see there are quite a few.

Mr. Chairman, I wonder if a 40 minute limitation would be satisfactory?

Mr. CHAPPELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PATMAN. I suspect it is a little early. We will forgo it.

Mr. BRASCO. Mr. Chairman and

members of the Committee, the very issue which is before the House today is whether or not we want to allow to be paid the fruits of labor contracts legally negotiated prior to August 15 of this year.

I might say that these were negotiated for one reason and one reason alone; because prices had gone up.

Mr. STEPHENS states that prices have not been given a chance to be raised, that is not so, because they were already raised and that is why the negotiations for increased wages took place.

Mr. STEPHENS is a very distinguished member of the committee and is very highly respected by myself and others. However, he says his amendment is a compromise. Those of us who are on the committee know that it is not a compromise. The only vehicle that gives the wages negotiated prior to August 15 to the employees is the Minish amendment. This amendment won, I must say, twice in committee. We had two separate and independent votes on the Minish amendment, and it won on two separate occasions.

Mr. STEPHENS says in his amendment teachers' raises are taken care of. To back that up Mr. ASHLEY stated not only are they taken care of but 95 percent of what is in the Minish amendment is taken care of by the Stephens amendment.

If that be so, I do not know what the debate is all about. I am sure it is not for 5 percent of what is left over, and I am sure it is not for pride of authorship in this amendment.

I will tell you what the debate is all about.

Mr. WIDNALL, another good friend of mine and a distinguished member of the committee, put it very succinctly when he said if you are for the Stephens amendment, you can be prolabor, you can be promanagement, and you can be proeverything. Yes, you can, because the Stephens amendment does nothing while it purports to grant the increases, it cuts everything.

Right now the Pay Board and this administration has the right to do everything that the Stephens amendment seeks to codify. If we adopt the Stephens amendment, what we are saying is that we are adopting nothing.

Let me give you the real reason why I am concerned about this.

It is because if we give authority to the Pay Board—and I think Mr. ASHLEY said if you are talking about the Pay Board, you are talking about the administration—to make the decision in this case, then I am afraid what is going to happen is what has happened with the Federal employees. Right now Federal employee wages have been held up. They have been held up unconscionably. Yet I am a member of the Committee on Post Office and Civil Service and, lo and behold, an arm of this administration, the Civil Service Commission, comes before the Committee on Post Office and Civil Service with the vice presidents of Blue Cross and Blue Shield and recommends a 34-percent increase in the health premiums for Federal employees, while on the other hand the administration is

holding up the wage increases for Federal employees.

That is the kind of equity we are going to become involved in if we allow these negotiated legally binding contracts to be decided by the Pay Board and by the administration. It is a kind of philosophy that says if you put money in the pocket of the little man, it is inflationary, but you take the money out of his pocket and give it to a big guy, that is combating inflation. Well, that is not so.

The only way that the people we all say we are concerned about, the working Americans, are going to get their increases, increases upon which they are depending and upon which they made obligations, is to sustain in this bill the Minish amendment. If we do any less than that, then I will agree with Mr. WIDNALL and say that we have not stood for anything today.

Thank you.

AMENDMENT OFFERED BY MR. LATTA TO THE AMENDMENT OFFERED BY MR. STEPHENS

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

The Clerk read as follows:

Amendment offered by Mr. LATTA to the amendment offered by Mr. STEPHENS: In paragraph (B), after "been advanced," insert "productivity increased."

Mr. LATTA. Mr. Chairman, let me say that I believe that everyone in this Chamber today wants equity for both the employers and the employees of this Nation. I support this amendment because I believe by its adoption it is the only way we can obtain equity for both.

Mr. Chairman, many cases come to my mind under the existing wage-price freeze where raw materials have not been frozen and have continued to rise in price since August 15. However, the prices of the products processed or manufactured from these same raw materials have been frozen and the affected companies have been restricted by law from increasing their prices. This regulation was certainly inequitable and unprofitable for these companies. To say to these same companies that you now have to pay wage increases retroactively for this same period would be giving them a second economic blow to which they are not entitled. I think that the Stephens amendment attacks this problem and brings equity to the situation.

The question has been raised by the chairman of the committee that this amendment as written would not reward increased productivity during this period. I am very much concerned about this and, certainly, if the Stephens amendment does not reward increased productivity, then I think that it should and we should spell it out in this bill in no uncertain terms as this is what this country needs. Whenever employees increase their productivity—and in turn the productivity of this Nation—we want to make certain that they are rewarded for it. The amendment which I am now proposing as an amendment to the Stephens amendment would so reward these employees.

Mr. Chairman, I have discussed this amendment with the gentleman from Georgia (Mr. STEPHENS) and I now yield

to the gentleman for any comments he may wish to make.

Mr. STEPHENS. I thank the gentleman from Ohio for yielding. I believe what the gentleman is proposing would be acceptable, and I would like to say that it is acceptable to me and to the others on this side of the aisle that favor my amendment.

Mr. LATTA. I thank the gentleman.

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

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. WIDNALL. I favor the amendment as I have read it very carefully and I feel that this would be a healthy change in order to correct some of the conflicts which exist between some of the Members of this House. Therefore, I think we should accept this amendment.

Mr. LATTA. I thank the gentleman from New Jersey and urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. LATTA) to the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The amendment to the amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the acceptance of the Latta amendment, as far as I can understand it, although I have not seen a copy of it, still leaves the word "permits" in this legislation and eliminates the word "requires" with reference to honoring contracts.

So, Mr. Chairman, I feel that we must sustain the committee in relation to contracts that were signed by workers and schoolteachers throughout America. It is incumbent upon the Congress to see that these contracts are honored and we must state quite clearly that when agreement is made—such as a signed contract—we expect both parties to that contract to keep their word.

It was mentioned in relation to my own State of New Jersey a few moments ago that the schoolteachers in New Jersey approve of the acceptance of the Stephens amendment.

Mr. Chairman, I would like to read into the record a statement which I received less than 5 minutes ago from the Public Relations Director of the New Jersey Education Association, a professional association that represents over 90 percent of the schoolteachers in New Jersey, from Mr. Lewis Applegate in which he stated as follows:

I am authorized to report that the New Jersey Education Association supports the Minish amendment and is 100-percent opposed to the Stephens amendment.

Mr. Chairman, concerning the problems of this country and the efforts of Congress to meet them, we are getting ourselves involved in agreements and contracts that have been made by employers and employees.

We have no right in the Congress, nor does the administration, to tell people that, "You do not have to keep your word; you do not have to meet your commitments."

And, Mr. Chairman, what is worse

about this whole idea of breaking contracts is that we are breaking only half of a contract. Agreements were made and people said, "I think I will change my job next year because I will get a better deal than I am now getting in another industry." We say, "If you will work at your job, and do these duties for the coming year, you will receive this amount of pay."

An agreement was made that the worker will work at that job, and the employer will pay him a stated salary. Now, the Federal Government comes along and says, "We are going to break half of that. The obligation of the worker to show up for work, to do this job, to work these hours throughout the years stays in. He has to meet his half of the contract." But as far as the employer is concerned, they say, "You do not have to meet your commitment. You will get the labor force, you will get the hours you want, you will get the job done, but you do not have to pay the salary you agreed upon."

That is what is wrong about the whole thing, and that is what is needed in the committee action and in the Minish amendment that, no matter what the people say about the economic conditions and what Congress does about them, we may raise taxes too much, we may spend money in a way that they do not want us to do, but at least you have the people in America saying that the Congress is fair, it is fair to all people.

There are many other inequities in this phase II operation, but this is the most glaring one. So let us not leave here today and have the Congress say that we will break contracts for some of the people, and hold people to other contracts. The only way we can be completely fair is to sustain the committee's action on the Minish amendment.

Any amendment that would make it permissible for any board of education—and the Stephens amendment says the board of education may do what is right if he feels it is right, but if it does not feel it is right, it does not have to do so.

My point, however, is this: These contracts have already been signed. The board of education had earlier agreed that the amount of money to be paid a given teacher was fair and equitable. Therefore, there is an obligation to make good on that contract or promise. The same should apply to any labor contract.

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

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

Mr. BROWN of Michigan. Mr. Chairman, would not the gentleman say that when a contract is negotiated between an employer and employees, that there is also contemplated in that contract an understanding between the employer, his employees, and the persons to whom the firm sells whatever the labor produces, that price increases will occur to fund such increases in pay? Do you say it is fairer for the Government to step in and prevent the employer from having the ability to pay increased wages, than it is to step in between the employer and the employees regarding payment of their wages?

Mr. HOWARD. I agree, and that is the reason I say that nothing should have

been done—nothing should have been done until after August 15. It is the same thing with someone who made a bid for a contract with the Federal Government, and he considered, in making his bid, how much he would have to pay for materials from the manufacturer, as well as increasing salaries, and then August 15 comes along, and he finds out, gee, I am not going to have to pay that increase in salaries, and the additional prices, because of the freeze on the goods of the manufacturers for their products, but I can still get the same amount of money on my bid, so I have a tremendous windfall here. I am saving money from both the manufacturer and the businessman, and also on the salaries. But there was no change in the price of my bid, and therefore I have a tremendous windfall coming to me.

That is unfair.

Mr. BROWN of Michigan. But what the gentleman is describing is covered by the Stephens amendment. If it is adopted, there will be no windfalls derived in contemplation of payment, and then non-payment of retroactive wages.

Mr. HOWARD. There can be no increases in teachers' pay or salaries from the budget paid by the people in the communities by the amount of extra tax money that was collected, and which is sitting in the treasury of the board of education now, that would not be affected at all, but as long as the word "permit" is in there then you have complete freedom to do the way you wish.

So I believe the Minish amendment should be supported.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Stephens amendment.

The CHAIRMAN. The Chair will state to the Members that the Chair is trying to recognize the members from the committee first when they rise, and the Chair is trying to alternate.

However, if the Members on one side do not rise promptly, and a member of the committee on the other side rises promptly, that Member will be recognized.

The Chair is trying to be fair.

Mr. CHAPPELL. Mr. Chairman, I think it is important for us to remember that the powers which we gave the President some time back to stabilize this economy were given to him by this Congress. It was broad authority. He has exercised that authority and has tried to stabilize the economy, in part by the freeze on wages and prices.

If this Congress now, after the President has already taken action under the powers it gave him, and snatches part of that authority retroactively from him, then a serious injustice will be done to a large segment of our people. It is not now fair to retroactively "unfreeze" wages without doing the same for prices unless prices had already been increased in anticipation of agreed wage increases.

It seems to me, if we are trying to get at the situation that some gentlemen are talking about here in support of the Minish proposition, then an amendment should be offered which would require the President to permit future increases

in prices to offset increases in wages which were not permitted during the freeze period. Such action would be clearly inflationary.

Mr. Chairman, this amendment addresses itself solely to the 90-day freeze period. Solely that period between August 15 and November 15—and to no other. It addresses itself solely to the question of whether or not we are going to require now employers to go back and pay wage increases without allowing a comparable price increase to shoulder the increased business cost resulting from such a wage increase.

This amendment simply intends to do equity between labor and management. It provides that wage increases fully provided for prior to the freeze date of August 15, 1971, and due to be paid during the 90-day freeze would be allowed retroactively. In order to find such wage increases entitled to retroactivity the President would find that an affected employer had in fact increased his prices or his productivity in contemplation of the wage increase or in the instance of public employees, he would find that funds had been provided for in support of wage or salary increases previously arranged by contract or by law.

Much has been said of the use of the word "permit" that it requires the President to do nothing. I cannot agree. The amendment requires the President to promptly take such action as may be necessary to permit payment of such wage and salary increases contemplated by the amendment.

It is a mandatory proposition—it should be so. Certainly, however, we would not intend to require the Wage Board to go all over the United States filing suits for others to bring this about. The use of the word "permit" is proper. It is mandatory, that the President clear the way for payments entitled to retroactivity. I cannot see for the life of me why there is such a big play on the word "permit."

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

Mr. CHAPPELL. I yield to the gentleman.

Mr. BRASCO. The gentleman in the well has on several occasions indicated that contracts should be paid only if management had an opportunity to increase the prices.

So far as I am concerned, with my own knowledge of labor law, management never grants an increase and then raises prices to take care of the increases that have been granted.

Before they even begin to negotiate increases in wages, they take care of their increases in prices and they take care of their stockpiles and the things that they need in terms of their own productivity.

Mr. CHAPPELL. Then you certainly should be in favor of this amendment. That is exactly what it would permit, if price increases were made in anticipation of wage increases, then retroactivity would be allowed. Fairness and justice would demand it.

Mr. BRASCO. They have to prove that they did it to the satisfaction of the Pay Board, which by virtue of their own

guidelines indicated that they have made up their minds with respect to that. That is what we are concerned about.

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

Mr. CHAPPELL. I yield to the gentleman.

Mr. HANNA. I think it is rather important to have very clearly on the record what this amendment means because there is a possibility that we will adopt this amendment.

I think the gentleman will agree with me that if the President had not acted, the contracts would have been carried out under the contract law. Any dispute including failure to perform provisions for pay increase could be taken into court under the law and be required to pay in court; is that not correct?

Mr. CHAPPELL. That is absolutely correct.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. CHAPPELL, at the request of Mr. HANNA, was granted permission to proceed for 2 additional minutes.)

Mr. HANNA. Then the next step—if the President had not said, "I will not permit these payments to be made"—they would have been made?

Mr. CHAPPELL. That is absolutely correct.

Mr. HANNA. So what you are trying to do is to say the President shall go back to the point before we enacted the law, that is, permission is now given whereas these contracts were interfered with because he would not permit them to go ahead and be carried out during the freeze period.

Mr. CHAPPELL. Absolutely. If compensating price increases had already taken effect before August 15, 1971, the increases should be allowed for the freeze period. Otherwise, they should not be allowed.

It is a matter of pure fairness. It would be unfair to require people whose prices were frozen to go back now and pick up increases retroactively unfrozen. In such instances this could result in severe damage to the businesses and economy of this Nation. There is no question in my mind about it.

Mr. HANNA. In the gentleman's opinion, the language of the amendment would put us back into the situation that existed before the President acted on the freeze.

Mr. CHAPPELL. That is absolutely correct.

Mr. HANNA. I thank the gentleman.

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

Mr. CHAPPELL. I yield to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I do appreciate my good friend's courtesy in yielding. I find myself strongly in agreement with the comments of the distinguished gentleman from Florida. He has made a very able statement. I fully and strongly support the Stephens amendment. I feel it provides a reasonable and necessary approach to the solution of a difficult problem. It will help to assure economic stabilization.

Mr. CHAPPELL. I thank the gentleman for his comments. Let me say in closing

that if we want to be fair and assure justice in this matter and help the President do that which we intended for him to do in the first place, we can do nothing less than to pass the Stephens amendment.

Mr. WYLIE. Mr. Chairman, I rise in support of the Stephens amendment.

Mr. Chairman, in my judgment the amendment we are discussing contains the guts of the bill and will determine whether we will have wage and price controls or not.

The impression was left by the distinguished Chairman of our committee, though I do not think he intended to leave such an impression, that he had a statement from the Secretary of Labor to the effect that the administration could live with the Minish amendment, thereby implying administration approval.

On November 22, at a press conference held with the Honorable John B. Connally, Secretary of the Treasury, one of the members of the press said—

Mr. Secretary, the legislation that is taking shape in Congress to cover phase II has retroactive wages and the House bill has controls. Would you advise the President to veto such a bill?

The Secretary replied—

With respect to the Minish amendment in the House: we strongly opposed that amendment. A similar amendment was offered in the Senate that is much more acceptable.

I mention that because the administration does not think that the Minish amendment will accomplish the purpose of wage-price controls.

The Minish amendment must be stricken from the bill, and that is one of the things the Stephens amendment would do. Let us look at it for a moment. The Minish amendment states—

Notwithstanding any other provisions of this title, effective on November 15, 1971, the authority conferred on the President by the title shall not be exercised to limit the wage or level of any wage or salary . . .

And so forth. That language is ambiguous when you read section 203 of the bill. In my judgment, the two are in conflict. So we have an ambiguous situation developing which would be impossible to administer. In my judgment, the Stephens amendment clarifies the intent of the Minish amendment in that it provides that if wage increases have been granted, they will go into effect if the wage increases have been provided for by taxes, price increases, or other source of revenue. In other words, the Stephens amendment prohibits deficit financing, which has been the root cause of our inflation in the first instance, in my judgment. Voluntary compliance will depend, of course, on the cooperation of labor, and I think voluntary compliance is essential in the administration of wage-price control.

The Pay Board was established as a tripartite Board, as Mr. Meany requested, so that labor would be a part of the decisionmaking as far as pay increases are concerned. Generally I think that the 80 million working people across the Nation support the wage-price freeze—at least that is what my mail says—and

if they knew what the Minish amendment does and knew that it would defeat the basic purpose of the wage-price freeze, they would be opposed to it.

There is no question, in my mind, that this would be the impact of the Minish amendment.

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

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, the gentleman is on our committee, and I admire him very much, but I just wonder, since the gentleman is advocating this amendment, if this amendment were to be adopted, would the gentleman vote for the bill?

Mr. WYLIE. The Stephens amendment?

Mr. PATMAN. Yes; the Stephens amendment.

Mr. WYLIE. Yes; I will vote for the bill if the Stephens amendment is adopted.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I submit to the members of the committee that the gentleman has made a very significant contribution. He is into an area which is very hard to understand, but I do think he has made a point which has been reiterated several times before, but for the benefit of those who do not seem to agree with it, all we can do is repeat it again and again.

First of all, the Stephens amendment is "shall" and is mandatory language?

Mr. WYLIE. That is my position, exactly.

Mr. J. WILLIAM STANTON. The proponents of the Stephens amendment have the understanding that the vast majority, if not all of the teachers in the contracts which have been entered into in this particular period will be honored by the Stephens amendment.

Mr. WYLIE. I think the gentleman is correct again. The Stephens amendment would more likely assure teachers of an increase in salary agreed to prior to August 15. I thank the gentleman for his contribution.

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

Mr. WYLIE. I yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, I remember the gentleman in the well said the Treasurer of the United States, that is the Secretary of the Treasury, said he was opposed to the Minish amendment. I am reminded of a great Speaker in the House of Representatives who said, when he was asked about the possibility of a Senator from his State accepting nomination of Vice President, that he did not think he should. But the next morning he advised the Senator to accept it. When he was asked why he changed his mind, he said, "I am a much smarter man this morning than I was last night."

It reminds me of the statement that Secretary Connally made on Novem-

ber 22. Now I want to talk about a later statement, made in December.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WYLIE) has expired.

(On request of Mr. MINISH, and by unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. WYLIE. That is the Secretary of Labor the gentleman is talking about now.

Mr. MINISH. That is right.

Mr. WYLIE. I was talking about the Secretary of the Treasury.

Mr. MINISH. I want to read a statement from the New York Times concerning Secretary of Labor Hodgson. Secretary Hodgson said today that—

The retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

I assume he speaks for the administration.

Mr. WYLIE. That was the impression which was left by the distinguished chairman, and I wanted to allay that impression. I would say if any one person speaks for the administration on the wage-price question, it is the Secretary of Treasury.

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 12:30.

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

Mr. DENNIS. Mr. Chairman, I dislike to object, not being a member of the committee, but I agree with what has been said here, that the debate on the bill centers on this measure. I think it is a pretty important bill, and I think every Member should have the chance to talk if he wants to. So I object.

MOTION OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close at 12:30.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 60, noes 24.

So the motion was agreed to.

The CHAIRMAN. Members standing at the time debate was limited will be recognized for 45 seconds each.

(By unanimous consent, Mr. GERALD R. FORD yielded his time to Mr. ANDERSON of Illinois.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

(By unanimous consent, Mr. GONZALEZ yielded his time to Mr. MINISH.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I should like to ask the chairman of the committee, with reference to State employees, particularly as it applies to my State of Texas, if under the committee bill the

State employees or teachers would be assured of their retroactive pay.

Mr. PATMAN. I am certain that they would. It is questionable whether they would under the Stephens amendment.

Mr. PICKLE. I should like to ask the gentleman from Georgia the same question. Under his amendment, for a State like mine, whose State employees were to get a raise on August 15, when the freeze caught them, would it be the intent of his amendment that they would be considered as having a legal contract and would be entitled to retroactive pay?

Mr. STEPHENS. It is my intent that that be done.

Mr. PICKLE. I thank both gentlemen.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. PIKE).

AMENDMENT OFFERED BY MR. PIKE TO THE AMENDMENT OFFERED BY MR. STEPHENS

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

The CHAIRMAN. Is it an amendment to the pending amendment?

Mr. PIKE. It is an amendment to the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The CHAIRMAN. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. PIKE to the amendment offered by Mr. STEPHENS: Strike out "permit" and insert "require".

Mr. PIKE. Mr. Chairman, I offer this amendment simply to remove an issue from this amendment offered by the gentleman from Georgia which I really do not believe ought to be there. I believe the gentleman's amendment is mandatory, is intended to be mandatory, read in context is clearly mandatory; but this particular issue has been raised. It has been argued. People have talked about it. Because the word "permit" is in the amendment people say it is permissive. I just want to get rid of this false issue, and make it clear that under all of the circumstances set forth in the amendment of the gentleman from Georgia it would be mandatory to grant the raises previously negotiated.

The CHAIRMAN. Does any Member on the list wish to speak on this particular amendment?

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman previously has been recognized.

Mr. DENNIS. Not on this amendment, Mr. Chairman.

The CHAIRMAN. The time is limited, and the gentleman cannot be recognized again.

The question is on the amendment offered by the gentleman from New York (Mr. PIKE) to the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Thank you, Mr. Chairman.

It is indeed a paradox of inconsistency that so many Members of this House who for so long had called for

wage and price controls to combat inflation now seek to gut the very policy it espoused. It was in fact many of these same Members who gave the President the authority which he did not seek or request. However, if you now want to sabotage the administration's fight on inflation for political expediency vote for the Minish amendment. It is just that simple.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to any effort which would eliminate from the Wage Stabilization Act the provision that contracts calling for wage increases negotiated prior to August 15 must be honored notwithstanding any other provision of this act.

The Banking and Currency Committee has quite properly included in the legislation before us today a provision calling for retroactive payment of wage increases and fringe benefits if such increases were negotiated prior to August 15.

The committee's recommendation recognizes the same principle that neither Congress nor the President of the United States can void contractual agreements worked out in good faith at the bargaining table.

The Stephens amendment would void the committee recommendation.

It seems to me incredible that the Congress of the United States should be asked to void by legislative act contracts and agreements entered into under the collective bargaining process between labor and management.

We are talking here about contracts that may have another year to two to run. We are not discussing contracts that will be negotiated in the future.

It occurs to me that Congress will be setting a very dangerous precedent if by a legislative act we can void and negate contracts entered into legally and in good faith. This is a precedent which could have all sorts of ramifications and for that reason I hope the Committee will reject the Stephens amendment and require the payment of retroactive pay as required in any collective bargaining agreement signed prior to August 15.

Mr. Chairman, I have serious misgivings about this entire proposal. The record of this administration in implementing the Stabilization Act of 1970 leaves much to be desired. It is my hope that the administration will administer this new act with a good deal more equity and without putting both labor and industry into a hopeless straitjacket of bureaucracy.

I believe I should call attention of the House to the fact that there are some very serious legal questions involved in this legislation. I am following with great interest a legal action working its way to the Supreme Court filed on behalf of the Amalgamated Meatcutters & Butcher Workmen of North America, AFL-CIO, by the law firm of Jacobs, Gore, Burns & Sugarman of Chicago.

Mr. Albert Gore, a member of this firm, was good enough to supply me with copies of two memorandums filed with the district court challenging the constitu-

tionality of the wage-price freeze initiated by the President on August 15.

I believe Mr. Gore raises some very significant legal points and it is my hope that the courts will carefully study the constitutionality of the very broad and excessive power which Congress is giving the President to deal with inflation.

My concern is that mismanagement of this legislation by the executive branch of Government could plunge this nation into a very serious economic crisis and bring industry to a grinding halt.

I believe the administration of this law will require great skill because the backbone of America's capitalistic system lies in its freedom.

My fear is that when we impose severe limitations on the rights of labor to seek its just goals at the bargaining table and when we impose excessive restrictions on the right of industry to seek its best level of growth, we are indeed making a historic change in our economic thinking.

I shall watch with great interest and concern the administration of this legislation by the President and I shall not hesitate to point out its shortcomings whenever they occur.

As the appropriate time I shall ask permission of the House to include in my remarks today the two memorandums prepared by Mr. Gore.

Those memorandums follow.

[In the U.S. District Court for the District of Columbia]

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND THREE-JUDGE COURT

(Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, plaintiff versus John B. Connally, et al., defendants, civil action, No. 1833-71)

STATEMENT OF FACTS

Plaintiff, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, is a labor union with more than half a million members (Complaint, Count I, par. 2). The Union and its constituent locals have collective bargaining contracts with employers engaged in commerce in the meat packing industry, the retail foods industries, the fur and leather industry, the food processing, poultry and seafood industries, the canning industry, and miscellaneous non-food industries (Compl. Count I, par. 7). Those collective bargaining agreements provide for increases in salaries, wages, pension contributions and contributions to health and welfare funds that are scheduled to take effect between August 15 and November 13, 1971, affecting in excess of 150,000 employees. The wage increases range from 4¢ to 35¢ per hour, and the salary increases range from \$10.00 to \$27.00 per week. The scheduled increases in contributions to health, welfare and pension funds range from 1¼¢ per hour to 10¢ per hour, and, on a monthly basis, from \$10.00 to \$28.00 per month (*Ibid.*). These increases in wages, salaries and fringe benefits were but a part of the entire contractual package negotiated by the Union and each employer, and represented a settlement by both sides in which various other demands were abandoned or modified in the process of reaching a meeting of the minds. All such collective bargaining agreements had become effective prior to August 15, 1971.

On August 15, 1971, President Nixon issued Executive Order 11615. In that Order, the President directed that all "prices, rents, wages, and salaries" in virtually all sectors of the economy be "stabilized for a period of 90 days from the date hereof at levels not greater than the highest of those pertaining to a substantial volume of actual transactions

by each individual, business, firm or other entity of any kind during the thirty day period ending August 14, 1971, for like or similar commodities or services" (EO 11615, § 1(a)).

In his speech announcing the wage-price freeze, the President declared that he was imposing these restraints even though the national economy had been improving without them. Thus, he said that the nation's "unemployment rate today is below the average of the four peacetime years of the 1960's;" and that "from the high point of six per cent a year in 1969, the rise in consumer prices has been cut to four per cent in the first half of 1971" (Weekly Comp. of Pres. Doc., Vol. 7, No. 34, issue of Aug. 23, 1971).

The Executive Order was predicated on the authority given the President by Congress in the Economic Stabilization Act of 1970, as amended (P.L. 91-379, 84 Stat. 799; P.L. 91-558, 84 Stat. 1479; P.L. 92-8, 85 Stat. 13; P.L. 92-15, 85 Stat. 38), hereinafter referred to as "the Act." The Act authorized the President "to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970," but also empowered him to "provide for the making of such adjustments as may be necessary to prevent gross inequities" (§ 202(a)).

The Executive Order also created the Cost of Living Council, and delegated to the Council "all of the powers conferred on the President by the Economic Stabilization Act of 1970" (EO 11615, §§ 2(a), 3(a)). The Council is empowered to "(i) prescribe definitions for any terms used herein, (ii) make exceptions or grant exceptions, (iii) issue regulations and orders, and (iv) take such other actions as it determines to be necessary and appropriate to carry out the purposes of this Order" (EO 11615, § 4(a)).

Executive Order 11615 was intended by the President, and has been so construed by the Council, to impose a freeze on all wages, salaries, and fringe benefits as they existed just prior to August 15, and to prohibit any increase for the next 90 days in wage and salary rates, or in fringe benefits and employer contributions to health, welfare and pension funds, even though such increases may have been contracted for prior to August 15 (Compl., Count I, ¶ 6).

Relying on Executive Order 11615 and Council rulings implementing the Order, a number of employers have advised the Union that they are prohibited from implementing the increases in wages, fringe benefits and contributions to health, welfare, and pension funds to which they had previously agreed (Compl., Count I, ¶ 8). Among the employers so refusing to abide by their contracts are the eight who are defendants in this suit, and who employ a combined total of 50,000 workers: Swift & Company; Armour & Company; Hygrade Food Products Corporation; Wilson Certified Foods; Wilson-Sinclair; Wilson Beef & Lamb Co.; John Morrell & Co.; and Cudahy Packing Company. Those employers have refused to implement a 25c per hour wage increase that was supposed to be accorded their employees effective September 6, 1971 (Compl., Count II, ¶¶ 15-18; Poole Affidavit, ¶¶ 2-4).

Under the terms of the Executive Order, as interpreted and applied by the Council, the increases in earnings and fringe benefits denied the employees during the freeze period will be forever lost to them, because the Union and the employers with whom it deals are precluded from agreeing to a retroactive payment of the scheduled increases after the freeze expires. Accordingly, the Union has brought this suit for declaratory judgment and injunctive relief.

ARGUMENT

I. The Economic Stabilization Act of 1970 is unconstitutional

A. The Act Improperly Delegates Legislative Power to the President

Article I, Section 1, of the Constitution provides:

"All legislative Powers herein granted shall be vested in a Congress of the United States . . ."

The Economic Stabilization Act of 1970, however, vests unbridled legislative power in the President. Without a declaration of the reasons for the legislation, the circumstances in which the power may be invoked, or the methods to be used, Congress simply authorized the President "to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970." (Section 202(a).)¹

This naked grant of authority empowers the President to determine whether prices, rents, wages or salaries will be controlled, and the scope, manner and timing of those controls. Under this Act, he has the power to freeze them, lower them or raise them directly, and he can regulate them indirectly by banning strikes, regulating production, and by innumerable other means.

The authority thus conferred by Congress on the President constitutes a clear violation of the separation of powers between the Executive and Legislative branches of the Government which the Constitution mandates. The Economic Stabilization Act of 1970 ignores the distinction between "the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law" (*Panama Refining Co. v. Ryan*, 293 U.S. 388, 426 (1935)). The latter is constitutional; the former is not.

The authority granted the President by the Act is no more legitimate than the grant of Presidential authority challenged in *Panama Refining*, *supra*. There, the Court held unconstitutional Section 9(c) of Title I of the National Industrial Recovery Act (48 Stat. 195, 200), which gave to the President the power to prohibit the interstate transportation of oil produced in excess of State-imposed production quotas. Describing Section 9(c), in terms equally applicable here, the Court said (293 U.S. at 415):

Section 9(c) does not state whether or in what circumstances the President is to prohibit the transportation of the amount of petroleum or petroleum products produced in excess of the state's permission. It establishes no criterion to govern the President's course. It does not require any finding by the President as a condition of his action. The Congress in section 9(c) thus declares no policy as to the transportation of the excess production. So far as this section is concerned, it gives to the President an unlimited authority to determine the policy and to lay down the prohibition, or not to lay it down, as he may see fit. And disobedience

¹ There are only two limitations on this authority: one is that it expires at midnight, April 30, 1972 (Section 206); the other requires that the President first make a determination of special need based on enumerated factors before singling out "a particular industry or sector of the economy upon which to impose controls" (Section 202 (b)). The latter limitation was added by Congress in the Spring of 1971 because of its disapproval of the President's exercise of power to impose controls on union-negotiated wages in the building and construction industry. See Sen. Rep. No. 92-89, 92nd Cong., 1st Sess., reported in U.S. Code Cong. & Adm. News, pp. 662-663 (1971).

to his order is made a crime punishable by fine and imprisonment.

The Court recognized that Congress does have the power to enact legislation establishing primary standards and "devolving upon others the duty to carry out the declared legislative policy; as Chief Justice Marshall expressed it, 'to fill up the details' under the general provisions made by the Legislature" (293 U.S. at 426). Analyzing the precedents, however, the Court went on to say (*id.*, at 432):

"Thus, in every case in which the question has been raised, the Court has recognized that there are limits of delegation which there is no constitutional authority to transcend. We think that section 9(c) goes beyond those limits. As to the transportation of oil production in excess of state permission, the Congress has declared no policy, has established no standard, laid down no rule. There is no requirement, no definition of circumstances and conditions in which the transportation is to be allowed or prohibited.

"If section 9(c) were held valid, it would be idle to pretend that anything would be left of limitations upon the power of the Congress to delegate its lawmaking function. The reasoning of the many decisions we have reviewed would be made vacuous and their distinctions nugatory. Instead of performing its lawmaking function, the Congress could at will and as to such subjects as it chooses transfer that function to the President or other officer or to an administrative body. The question is not of the intrinsic importance of the particular statute before us, but of the constitutional processes of legislation which are an essential part of our system of government."

Panama Refining is now thirty-six years old, but the passage of years and growth of administrative agencies have not sapped the vitality of its teachings. In *Kent v. Dulles*, 357 U.S. 117 (1958), the Court held that the Secretary of State's promulgation of regulations denying passports to citizens who refused to sign a non-Communist affidavit was in excess of the powers conferred on him by Congress. In reaching this conclusion, the Court said (357 U.S. at 129):

"... the right of exit is a personal right included within the word 'liberty' as used in the Fifth Amendment. If that 'liberty' is to be regulated, it must be pursuant to the law-making functions of the Congress. *Youngstown Sheet & Tube Co. v. Sawyer* [343 U.S. 579]. And if that power is delegated, the standards must be adequate to pass scrutiny by the accepted tests. See *Panama Refining Co. v. Ryan*, 293 U.S. 388, 420-430. ***Where activities or enjoyment, natural and often necessary to the well-being of any American citizen, such as travel, are involved, we will construe narrowly all delegated powers that curtail or dilute them. See *Ex Parte Endo*, 323 U.S. 283, 301-302. Cf. *Hannegan v. Esquire, Inc.*, 327 U.S. 146, 156; *United States v. Rumely*, 345 U.S. 41, 46. We hesitate to find in this broad generalized power an authority to trench so heavily on the rights of the citizen.

The right to secure the benefits of valid employment contracts lawfully entered into is no less protected by the Fifth Amendment than is the "right of exit," and the principles found applicable in *Kent v. Dulles*, quoted above, are no less applicable to the case at bar. As stated by Justice Brennan, concurring in *United States v. Robel*, 389 U.S. 258, 274-277 (1967):

"Congress ordinarily may delegate power under broad standards. * * * No other general rule would be feasible or desirable. Delegation of power under general directives is an inevitable consequence of our complex society, with its myriad, ever changing, highly technical problems. 'The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility

and practicality * * * to perform its function * * *. *Panama Refining Co. v. Ryan*, 293 U.S. 388, 421. It is generally enough that, in conferring power upon an appropriate authority, Congress indicates its general policy, and act in terms or within a context which limits the power conferred. * * *

"The area of permissible indefiniteness narrows, however, when the regulation invokes criminal sanctions and potentially affects fundamental rights. . . . This is because the numerous deficiencies connected with vague legislative directives whether to a legislative committee, *United States v. Rumely*, 345 U.S. 41; to an executive officer, *Panama Refining Co. v. Ryan*, 293 U.S. 388; to a judge and jury, *Cline v. Frink Dairy Co.*, 274 U.S. 445, 465; or to private persons, *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58; see *Schechter Poultry Corp. v. United States*, 295 U.S. 495; are far more serious when liberty and the exercise of fundamental rights are at stake.

"* * * Formulation of policy is a legislature's primary responsibility, entrusted to it by the electorate, and to the extent Congress delegates authority under indefinite standards, this policy-making function is passed on to other agencies, often not answerable or responsible in the same degree to the people. * * *

"The need for legislative judgment is especially acute here, since it is imperative when liberty and the exercise of fundamental freedoms are involved that constitutional rights not be unduly infringed. *Cantwell v. State of Connecticut*, supra, 310 U.S., at 304. Before we can decide whether it is an undue infringement of protected rights to send a person to prison for holding employment at a certain type of facility, it ought at least to appear that Congress authorized the proscription as warranted and necessary. Such congressional determinations will not be assumed."

See also *Gutknecht v. United States*, 396 U.S. 295, 306-307 (1970).

The "separation of powers" issue goes to the very core of this nation's government. In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the Court struck down the President's seizure of the nation's steel mills by executive order during the Korean War as an unconstitutional exercise of legislative power. Justice Jackson's eloquent concurring opinion therein aptly presents the matter. He said:

"The opinions of judges, no less than executives and publicists, often suffer the infirmity of confusing the issue of a power's validity with the cause it is invoked to promote, of confounding the permanent executive office with its temporary occupant. The tendency is strong to emphasize transient results upon policies—such as wages or stabilization—and lose sight of enduring consequences upon the balanced power structure of our Republic." (343 U.S. at 634.)

"I did not suppose, and I am not persuaded, that history leaves it open to question, at least in the courts, that the executive branch, like the Federal Government as a whole, possesses only delegated powers. The purpose of the Constitution was not only to grant power, but to keep it from getting out of hand. * * * The example of . . . unlimited executive power that must have most impressed the forefathers was the prerogative exercised by George III, and the description of its evils in the Declaration of Independence leads me to doubt that they were creating their new Executive in his image. * * * And if we seek instruction from our own times, we can match it only from the executive powers in those governments we disparagingly describe as totalitarian." (343 U.S. at 640-641.)

Thus, the genius of the framers of our Constitution placed in the hands of Congress the

power to legislate to avoid the creation of another George The Third in the name of the Presidency. Hence it is for Congress to constitutionally empower the President to take action, but it must be sure that the power is administrative, not legislative. That legislative function was defined in *Yakus v. United States*, 321 U.S. 414 (1944), where, in rejecting the claim that the Emergency Price Control Act of 1942 (56 Stat. 23) was an unconstitutional delegation of legislative power to the executive branch of the government, the Court said (321 U.S. at 424-425):

"The essentials of the legislative function are the determination of the legislative policy and its formulation and promulgation as a defined and binding rule of conduct—here the rule, with penal sanctions, that prices shall not be greater than those fixed by maximum price regulations which conform to standards and will tend to further the policy which Congress has established. These essentials are preserved when Congress has specified the basic conditions of fact upon whose existence or occurrence, ascertained from relevant data by a designated administrative agency, it directs that its statutory command shall be effective."

Or, as stated in *Boules v. Willingham*, 321 U.S. 503, 515 (1944):

"Congress does not abdicate its functions when it describes what job must be done, who must do it, and what is the scope of his authority."

See also *Opp Cotton Mills v. Administrator*, 312 U.S. 126, 144-145 (1941). And Chief Justice Warren, speaking for the majority of the Court, in *United States v. Robel*, 389 U.S. 258 (1967) said that even the war power "cannot be invoked as a talismanic incantation to support any exercise of Congressional power which can be brought within its ambit," nor does it "remove Constitutional limitations safeguarding essential liberties * * *. It has become axiomatic that "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedom." (389 U.S. at 263-265.)

Measuring the Economic Stabilization Act of 1970 by the yardstick described in the cases cited above, one is compelled to conclude that Congress in 1970 unconstitutionally abdicated its functions to the President by conferring far-reaching authority upon him, but failing to describe the job to be done, the scope of his authority and the standards to which Congress shall conform. There is nothing in the Act remotely approaching the objects and standards set forth by Congress in the Emergency Price Control Act of 1942, quoted in *Yakus*, supra, 321 U.S. at 419-421, or in the Defense Production Act of 1950, 50 U.S.C.A. App. Secs. 2062, 2101-2102.

A comparison of the Economic Stabilization Act of 1970 with the relevant portions of the Defense Production Act of 1950 is instructive. The 1950 Act is replete with Congressional findings and declarations of policy and intent. In Section 2 of that Act (50 U.S.C.A. App. Sec. 2062), Congress declared:

"It is the policy of the United States to oppose acts of aggression and to promote peace by insuring respect for world law and the peaceful settlement of differences among nations. To that end this Government is pledged to support collective action through the United Nations and through regional arrangements for mutual defense in conformity with the Charter of the United Nations. The United States is determined to develop and maintain whatever military and economic strength is found to be necessary to carry out this purpose. Under present circumstances, this task requires diversion of certain materials and facilities from civilian use to military and related purposes. It requires expansion of productive facilities beyond the levels needed to meet the civilian demand. In order that this diversion and expansion may proceed at once, and that the

national economy may be maintained with the maximum effectiveness and the least hardship, normal civilian production and purchases must be curtailed and redirected.

"It is the objective of this Act to provide the President with authority to accomplish these adjustments in the operation of the economy. It is the intention of the Congress that the President shall use the powers conferred by this Act to promote the national defense, by meeting, promptly and effectively, the requirements of military programs in support of our national security and foreign policy objectives, and by preventing undue strains and dislocations upon wages, prices, and production or distribution of materials for civilian use, within the framework, as far as practicable, of the American system of competitive enterprise."

And in establishing the President's authority to impose price and wage controls, Congress said (Section 401, 50 U.S.C.A. App. Sec. 2101):

"It is the intent of Congress to provide authority necessary to achieve the following purposes in order to promote the national defense: To prevent inflation and preserve the value of the national currency; to assure that defense appropriations are not dissipated by excessive costs and prices; to stabilize the cost of living for workers and other consumers and the costs of production for farmers and businessmen; to eliminate and prevent profiteering, hoarding, manipulation, speculation, and other disruptive practices resulting from abnormal market conditions or scarcities; to protect consumers, wage earners, investors, and persons with relatively fixed or limited incomes from undue impairment of their living standards; to prevent economic disturbances, labor disputes, interferences with the effective mobilization of national resources, and impairment of national unity and morale; to assist in maintaining a reasonable balance between purchasing power and the supply of consumer goods and services; to protect the national economy against future loss of needed purchasing power by the present dissipation of individual savings; and to prevent a future collapse of values. It is the intent of Congress that the authority conferred by this title shall be exercised in accordance with the policies set forth in section 2 of this Act, and in particular with full consideration and emphasis, so far as practicable, on the maintenance and furtherance of the American system of competitive enterprise, including independent small-business enterprises, the maintenance and furtherance of a sound agricultural industry, the maintenance and furtherance of sound working relations, including collective bargaining, and the maintenance and furtherance of the American way of life."

Moreover, along with the power to impose economic controls, Congress prescribed for the President the standards he should use and the factors he should consider in stabilizing prices and wages in all or any part of the economy (Section 402, 50 U.S.C.A. App. Sec. 2102).

The 1970 Act, on the other hand, merely contains the grant of authority to "stabilize" prices and wages (Sec. 202(a)); empowers him to delegate that authority to any government officer or agency he may choose (Sec. 203); provides for fines and injunctive relief against violators of "any order or regulation under this title" (Secs. 204-205); and states that the President's authority shall expire "at midnight April 30, 1972" (Sec. 206). Unlike the 1950 Act, there is no declaration of policy, no statement of Congressional intent, no standards to guide the President, and no limitations on his exercise of the powers conferred, except as noted in footnote 1, supra.

It is no accident that the Act is barren of any declaration of policy, guidelines or con-

trols. For, the legislative history of the Act makes plain that Congress intended to confer upon the President the unbridled power to impose general economic controls of whatever kind and at whatever time he saw fit.² Indeed, a number of legislators opposed the Act precisely because of the breadth and scope of the delegation of power contained therein.³

In sum, in the Economic Stabilization Act of 1970, Congress sought to confer on the President total untrammelled discretionary power to make the major policy determinations whether, when and how economic controls should be imposed upon this nation, without spelling out guidelines or standards. Manifestly, Congress in the instant Act failed to comply with the Constitutional principle that "more is required of legislatures than a vague delegation to be filled in later by mute acquiescence" [*Barenblatt v. U.S.*, 360 U.S. 109, 140 (1959)]. Thus, by its action, Congress abdicated its constitutional responsibilities. Clearly, therefore, the Act is null and void as being violative of Article I, Section 1, of the Constitution.

B. The Act Abridges Rights Under the Fifth Amendment

As interpreted by the President, the Act empowers him to freeze prices, rents, wages and salaries at levels not lower than those prevailing on May 25, 1970, regardless of existing contracts that may call for increases in those levels. It is settled law, however, that under the Due Process Clause of the Fifth Amendment, the federal government may not impair the obligation of existing contracts. *Thorpe v. Housing Authority*, 393 U.S. 268, 278, n. 31 (1969); *Home Building & Loan Ass'n v. Blaisdell*, 290 U.S. 398, 440 (1934); *Block v. Hirsh*, 256 U.S. 135, 154-155 (1921). This is not to say that Congress may not pass laws affecting freedom of contract or rights under existing contracts when "the vital interests of its people" are at stake (*Blaisdell*, supra, 290 U.S. at 434). But the test of constitutionality is "whether the legislation is addressed to a legitimate end and the measures taken are reasonable and appropriate to that end" (*id.*, at 438).

Among the vital interests of a people is its economic well-being, and the state can modify or curtail rights under existing contracts to protect or promote that interest. *City of El Paso v. Simmons*, 379 U.S. 497,

508 (1965); *Blaisdell*, supra, 290 U.S. at 437. Such modification or curtailment, however, "must be consistent with the fair intent of the constitutional limitation" against "modifying or affecting the obligation of contract." *City of El Paso*, supra, 379 U.S. at 509. The state's power of modification and the Constitution's injunction against impairment "must be construed in harmony with each other," which "precludes a construction which would permit the state to adopt as its policy the repudiation of debts or the destruction of contracts or the denial of means to enforce them." *Ibid.*; *Blaisdell*, supra, at 439.

The reason for requiring the state to give reasons for restricting a constitutional right is quite obvious. If a restriction can only be imposed when a certain set of facts are found to exist, the actual existence of those facts must be open to judicial scrutiny to protect the rights of those affected thereby. As the Court said in *Blaisdell*, wherein it upheld the constitutionality of a state law imposing a moratorium on mortgage foreclosures during the Great Depression (290 U.S. at 442):

"... while the declaration by the Legislature as to the existence of the emergency was entitled to great respect, it was not conclusive; and, further, ... a law 'depending upon the existence of an emergency or other certain state of facts to uphold it may cease to operate if the emergency or the facts change even though valid when passed.' It is always open to judicial inquiry whether the exigency still exists upon which the continued operation of the law depends." *Chastleton Corporation v. Sinclair*, 264 U.S. 543, 547, 548.

In the case at bar, there is no way to harmonize the Constitution's injunction against impairing the obligations of contracts with Congress' grant of such power to the President. In the Economic Stabilization Act of 1970, Congress made no finding or determination that modification of existing contract rights is necessary, nor did it require the President to make such a finding before imposing economic controls. The Act is thus "in notable contrast with historic practice ... by which declarations of policy are made by the Congress and delegations are within the framework of that policy and have relation to facts and conditions to be found and stated by the President in the appropriate exercise of the delegated authority" (*Panama Refining Co. v. Ryan*, supra, 293 U.S. at 431). In the absence of a legislative finding of need, therefore, the Act's restrictions on plaintiff's freedom of contract must be declared unconstitutional.

There is yet another respect in which the Act is deficient under the Fifth Amendment. In adopting the legislation, Congress made no provision for administrative or judicial review of the rules, regulations and determinations of the agencies administering the Act. Persons affected by orders and regulations issued under the authority of the Act are afforded no opportunity to be heard or present evidence before they are adversely affected by administrative action. Moreover, the courts are afforded no opportunity to pass upon the regulations and orders issued pursuant to the Act, and no basis for determining whether they are proper. This failure to provide a procedure for review of executive action taken pursuant to the provisions of the Act is a clear violation of the due process requirements of the Fifth Amendment. *United States v. Robel*, supra, 389 U.S. at 277-281 (concurring opinion); see *Yakus v. United States*, supra, 321 U.S. at 433, 437-438.

II. Executive Order 11615 Constitutes an Improper Exercise of Legislative Power and Violates the Fifth Amendment

Just as the Economic Stabilization Act of 1970 violates constitutional requirements by failing to provide a policy, standards and

findings of fact to guide the President and the nation, so too does Executive Order 11615 violate the Constitution by failing to show that the drastic action ordered therein—even if properly authorized—is warranted.

"The executive order contains no finding, no statement of the grounds of the President's action in enacting the prohibition. * * * If it could be said that from the four corners of the statute any possible inference could be drawn of particular circumstances or conditions which were to govern the exercise of the authority conferred, the President could not act validly without having regard to those circumstances and conditions. And findings by him as to the existence of the required basis of his action would be necessary to sustain that action, for otherwise the case would still be one of an unfettered discretion as the qualification of authority would be ineffectual." (*Panama Refining Co. v. Ryan*, supra, 293 U.S. at 431.)

Indeed, not only did the President make no findings of fact in the executive order to support his sudden imposition of far-reaching economic controls, but in his speech announcing the issuance of the order, the President actually stated facts showing that such controls were not needed. Regarding unemployment and inflation, two major elements that were the alleged target of the wage-price freeze, the President said:

"First, on the subject of jobs. We all know why we have an unemployment problem. Two million workers have been released from the Armed Forces and defense plants because of our success in winding down the war in Vietnam. Putting those people back to work is one of the challenges of peace, and we have begun to make progress. Our unemployment rate today is below the average of the four peacetime years of the 1960s.

"The second indispensable element of the new prosperity is to stop the rise in the cost of living.

"One of the cruellest legacies of the artificial prosperity produced by war is inflation. Inflation robs every American. The 20 million who are retired and living on fixed incomes are particularly hard hit. Homemakers find it harder than ever to balance the family budget. And 80 million wage-earners have been on a treadmill. In the four war years between 1965 and 1969 your wage increases were completely eaten up by price increases. Your paychecks were higher, but you were no better off.

"We have made progress against the rise in the cost of living. From the high point of six percent a year in 1969, the rise in consumer prices has been cut to four percent in the first year of 1971. * * *

Thus, the President explained that his existing economic policies were effective in eliminating unemployment and reducing the inflationary spiral, and because there was no emergency requiring the immediate imposition of restrictions on the people's liberties, he was announcing a "new economic policy" commencing with strict economic controls on wages and prices. On the basis of the facts relied on by the President in his speech, Executive Order 11615 is clearly unwarranted and unauthorized by Congress, and therefore unconstitutional. *Youngstown Sheet & Tube Co. v. Sawyer*, supra.

Even assuming the President could lawfully establish certain controls on the economy pursuant to the Act, and that he made the necessary findings to justify taking some action, the controls he imposed exceed that which the Act can reasonably be construed to permit. Nothing in the terms or legislative history of the Act supports the President's view that it conferred upon him the power to impair the obligations of existing contracts. Congress made no finding or determination that existing contract rights should be impaired when it empowered him to "stabilize" wages and prices, and this is—

² See, e.g., Rep. No. 91-1330, *Defense Production Act Extension and Economic Stabilization Act*, 91st Cong., 2d Sess., pp. 9, 11 (1970); remarks of Congressman Patman, 116 Cong. Rec. H7502 (daily ed., July 31, 1970); remarks of Congresswoman Sullivan, *id.*, at H7510; remarks of Congressman Leggett, *id.*, at H7527; remarks of Congressman Waggonner, *id.*, at H7537; remarks of Congressman Wright, *id.*, at H7542; remarks of Congressman Williams, 117 Cong. Rec. H1382 (daily ed., March 10, 1971); remarks of Congresswoman Sullivan, *id.*, at H1383; remarks of Congressman Barrett, *id.*, at H1383-84.

³ See, e.g., Additional views of Congressmen Brown, et al., H. Rep. 91-1330, supra; Additional views of Congressman Brown, *Extending Until March 31, 1973, Certain Provisions of Law Relating to Interest Rates and Cost-of-Living Stabilization*, H. Rep. 92-36, 92nd Cong., 1st Sess., p. 7; remarks of Congressman Brown, 116 Cong. Rec. H7520, H7544-45 (daily ed., July 31, 1970); remarks of Congressman Wylie, *id.*, at H7520; remarks of Congressman Williams, *id.*, at H7522; remarks of Congressman Crane, *id.*, at H7525-26; remarks of Congressman Gross, *id.*, at H7545 and H8259; remarks of Senator Packwood, 117 Cong. Rec. S. 6135-36, S. 6137 (daily ed., May 3, 1971); remarks of Congressman Frenzel, 117 Cong. Rec. H1384 (daily ed., March 10, 1971); remarks of Congressman Rousselot, 117 Cong. Rec. H1384-85 (daily ed., March 10, 1971).

sue was not a subject of Congressional debate. Absent clear evidence that Congress intended to confer on the President the power to affect existing contracts, the Act should not be construed to grant that authority. For, such a precious right should not be deemed suspended or abridged unless the need to do so is clear and compelling. See *Kent v. Dulles*, *supra*, 357 U.S. at 127-129.

In addition to freezing wages and salaries at the level they attained on August 14, 1971, Executive Order 11615, as construed by the Cost of Living Council, also froze fringe benefits such as paid break time, holidays, vacations and insurance benefits at the levels as they existed on that date. The Act, however, does not mention fringe benefits, but only "wages and salaries."

In the Defense Production Act of 1950, when Congress authorized the President to impose economic controls, it said he could issue "regulations and orders stabilizing wages, salaries, and other compensation . . ." (emphasis added). 50 U.S.C.A. App. Sec. 2102(b)(1). The phrase "and other compensation" clearly evidenced Congressional intent to cover all forms of remuneration for work performed, and under that provision, fringe benefits were regulated. That phrase does not appear in the Economic Stabilization Act of 1970. Accordingly, Congress must have intended that certain forms of compensation not constituting wages or salaries be excluded from regulation as not having a sufficient impact on the economy to warrant emergency control. The Council's attempt to regulate such benefits, therefore, is beyond the scope of its power under the Act and should be enjoined.

CONCLUSION

In enacting the Economic Stabilization Act of 1970, Congress sought to delegate to the President the unpleasant and difficult task of formulating a program of economic controls and restraints, without attempting to define, for his guidance, the objects to be accomplished, or the nature and timing of the program. By so doing, Congress improperly surrendered its constitutional responsibilities, and this Court should not permit the attempted delegation to stand. The Supreme Court said in *Aptheker v. Secretary of State*, 378 U.S. 500, 515 (1964):

" . . . this Court will not consider the abstract question of whether Congress might have enacted a valid statute but instead must ask whether the statute that Congress did enact will permissibly bear a construction rendering it free from constitutional defects."

In the case at bar, the statute Congress enacted will not permissibly bear a construction rendering it free from constitutional defects. The Economic Stabilization Act of 1970 should therefore be declared unconstitutional and its enforcement enjoined.

In any event, even assuming the Act is constitutional, Executive Order 11615 is itself illegal and void because it was issued at a time when the President himself announced there was no need for it. Moreover, the executive order goes far beyond the limits imposed by the Act in seeking to impair existing contract rights, and by freezing benefits that Congress never intended should be regulated.

For the foregoing reasons, we respectfully submit that a three-judge court should be convened, and that it issue a preliminary injunction restraining the Cost of Living Council from enforcing the Act and Executive Order 11615.

ALBERT GORE,
SOLOMON I. HIRSH,
JERRY D. ANKER,
Attorneys for Plaintiff.

SEPTEMBER 21, 1971.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Support of Plaintiff's Motion for Preliminary Injunction and

Three-Judge Court was served on September 21, 1971, by first class mail, postage prepaid, on the parties below:

United States Attorney General, Department of Justice, Washington, D.C.

United States Attorney, United States Court House, 3rd & Marshall Place, N.W., Washington, D.C.

Charles A. Horsky, Esq., Covington & Burling, 888 16th Street, N.W., Washington, D.C., 20006.

Stanley R. Strauss, Esq., 1750 Pennsylvania Avenue, N.W., Washington, D.C.

SOLOMON I. HIRSH.

[In the U.S. District Court for the District of Columbia]

PLAINTIFF'S REPLY MEMORANDUM IN SUPPORT OF ITS MOTION FOR A PRELIMINARY INJUNCTION

(Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, Plaintiff versus John B. Connally, et al., Defendants, civil action No. 1833-71)

1. In its memorandum in opposition to the Union's motion for a preliminary injunction, the Government asserts that the Union has an adequate remedy at law and has made no showing it will suffer irreparable harm if interlocutory relief is not granted. The facts, however, are to the contrary.

As shown in the complaint, the Union represents over 150,000 employees, covered by more than 150 collective bargaining contracts, who are being denied increases in wages, pensions and health and welfare benefits during the period of the President's freeze. The hardships these people must endure during the freeze can hardly be measured in dollars. As a result of the freeze, retirees are being denied pension increases which are needed now to pay for the increases in the cost of food, clothing, shelter and transportation that have eroded the value of their savings and pensions. As a result of the freeze, workers are being forced into desperate financial straits to pay medical bills that are due as a result of serious illness and injuries; the financial security of these people will not be returned to the status quo ante when, many months hence, the coverage of their medical insurance will be belatedly increased so as to protect them should serious illness or injury ever strike again. And, as a result of the freeze, ordinary working men and women whose wages only follow—not lead—the inflationary spiral, are being forced to make substantial sacrifices in their living standards and that of their families; they must borrow money at interest rates that are not frozen in order to pay for necessities or to help send children to school, cancel vacation plans, postpone purchases, and find second jobs in order to make ends meet.

These people will not be made whole simply because they will get a raise several months from now. Such harm is substantial and irreparable, and provides ample basis for the granting of injunctive relief as a preliminary matter. See *Burns v. Montgomery*, 299 F. Supp. 1002 (N.D. Cal. 1968), aff'd 394 U.S. 848, where a three-judge court granted a preliminary injunction restraining the enforcement of California's residency requirement for welfare applicants, upon a finding that the plaintiffs were being denied money for food, rent and medical care.

In addition to the harm being suffered by the Union and its members now as a direct result of the President's freeze order, other serious damage could befall the economy if the freeze is not immediately enjoined by a preliminary injunction. The affidavit of the Union's Executive Vice President, Harry Poole, which is attached to our motion for preliminary injunction, shows that the eight employer-defendants herein employ more than 50,000 workers covered by contracts with the Union, and that all of these people

were entitled to a 25 cents per hour wage increase effective September 6, 1971. If none of this money were to be paid until a final order of this Court in favor of the Union—possibly many months hence—the financial burden on these meat packers would be staggering. The total back pay of 50,000 employees at 25 cents per hour from September 6, to November 13, assuming no overtime, is five million dollars. We have no doubt that the employer-defendants could secure that much money from their various sources, but the long-term consequences to them of having to raise such a substantial sum could be quite harmful. And as for other, smaller employers who employ some of the remaining 100,000 Union members due an increase in wages and benefits during the freeze (see Poole Affidavit, §§ 5-7), a sudden obligation to pay back pay of tens of thousands of dollars could drive them out of business.

In sum, the harm which the Union's members are suffering now is substantial and irreparable; and the harm which its members, employers, and other elements of the economy may suffer in the future will also be substantial and perhaps irreparable. Under these circumstances, a preliminary injunction is warranted, for none of the injuries described above can be adequately compensated by damages awarded in an ordinary civil action. Thus, in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the Government opposed the District Court's grant of a preliminary injunction against the President's seizure of the nation's steel mills on the ground that the owners could recover full compensation from the Court of Claims should it ultimately be decided that the seizure was an unlawful taking of property. The Supreme Court rejected the Government's argument, finding that:

" . . . seizure and governmental operation of these going businesses were bound to result in many present and future damages of such nature as to be difficult, if not incapable, of measurement. Viewing the case this way, and in the light of the facts presented, the District Court saw no reason for delaying decision of the constitutional validity of the orders. We agree with the District Court and can see no reason why that question was not ripe for determination of the record presented."

Here, as in *Youngstown Sheet & Tube, supra*, the freeze is "bound to result in many present and future damages of such nature as to be difficult, if not incapable, of measurement." Under these circumstances, there is no reason to delay decision on the substantive issues of this case pending filing of the Government's formal answer to the complaint and a hearing on the permanent injunction.

2. The Government asserts (Memo. pp. 9-10), that "the Courts, including the Supreme Court, have always sanctioned the broadest possible delegation of authority in areas where, as here, the nature of the subject and the expertise of the Executive combine to call for timely and particularized action . . ." By careful selection and editing of quotes from various authorities, the Government seeks to give this Court the impression that there are virtually no limits on the power of Congress to delegate authority to the President, and that the delegation under challenge here is of a type long sanctioned. Analysis of the authorities cited by the Government, however, do not support its claims.

The Government places strong reliance on a law review article (Jaffe, *Delegation of Legislative Power*: II, 47 Colum. L. Rev. 561 (1947)) which, it claims, strongly implies that *Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935); and *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935)—cases upon which the Union relies—are no longer good law. The Government's claim is based on the first part of a sentence from the article (47

Colum. L. Rev. at 578), which says: "Since *Schechter* no delegation has been held invalid . . ." The rest of the sentence, however, not quoted by the Government, explains why no delegation was held invalid between 1935 and 1947, and points up the basic deficiency in the Economic Stabilization Act of 1970. The full sentence reads (*ibid.*):

"Since *Schechter* no delegation has been held invalid, but none of them has had quite the imposing generality of NRA and the Court has been careful to distinguish it."

The "imposing generality" which marked the National Recovery Act also marks the Economic Stabilization Act of 1970. As we showed in our original memorandum, the Act imposes no standards, guidelines or limitations on the President's power to impose wage and price controls on the economy as a whole, except that wage or price levels cannot be set below those existing on May 25, 1970. The Act does not even contain a generalized statement of purpose, which the NRA did contain. Thus, the considerations that led the Supreme Court to declare the NRA unconstitutional dictate a similar result in the case at bar.

The Government also quotes (Memo. p. 11) from Justice Brennan's concurring opinion in *United States v. Robel*, 389 U.S. 258 274-275 (1967), setting forth that part of the decision in *Panama Refining*, *supra*, which gives recognition to the right of Congress to delegate power under broad standards. Interestingly, however, the Government's memo fails to show that Justice Brennan was quoting from *Panama Refining*, and that he was concurring in a decision holding a provision of the Subversive Activities Control Act unconstitutional, based on his view that Congress had improperly delegated legislative powers to the Secretary of Defense. More of Justice Brennan's opinion is quoted in our original memo, pp. 8-9, and we invite the Court's attention thereto for a full exposition of the principles of law which require that the Economic Stabilization Act be held unconstitutional.

Just as *Robel* is of no aid to the Government in this case, neither, we submit, is *Yakus v. United States*, 321 U.S. 414 (1944). The lengthy excerpts set forth in the Government's memo, pp. 12-13, only serve to emphasize the crucial deficiencies in the 1970 Act which render it unconstitutional. See pp. 11-12 of our original memo.

Allen v. Grand Central Aircraft Co., 347 U.S. 535 (1954), which the Government cites at p. 19 of its memo, is totally inapposite. In *Allen*, the Court sustained the validity of certain regulations issued under the Defense Production Act of 1950 as being within the power conferred upon the President by that act.¹

In reaching this conclusion, the Court pointed out that the statutory provision relied on by the President in the 1950 Act was "derived from" the Stabilization Act of 1942 (347 U.S. at 541), and followed the earlier statute "almost word for word" (*id.*, at 546). For that reason, the Court held, "To read the Defense Production Act of 1950 without reference to this model is to read it out of the context in which Congress enacted it" (*id.*, at 541). No similar claim can be made about the derivation of the Economic Stabilization Act of 1970. As we showed in our original memo, pp. 11-13, a comparison of the 1970 Act with the acts of 1950 and 1942 shows that the most recent economic stabilization legislation is as much like the earlier

as a blunderbuss is like a sniper's rifle.² There is absolutely no similarity in form or substance between the 1970 legislation and the economic controls Congress authorized during World War II and the Korean conflict. For this reason, the Government's claim that the 1970 Act must be considered with reference to the earlier legislation can only hurt, not help, its case. For, the elements in the earlier legislation which the Supreme Court in *Yakus* relied on to sustain its constitutionality are totally lacking here.

3. In its memo, pp. 6-9, the Government argues that when Congress used the words "wages and salaries" in the Act, it intended to encompass all forms of compensation for services rendered, and that the President was therefore empowered to freeze fringe benefits and wage increases previously agreed to. The Government's argument based on the presumed meaning of "wages and salaries" is patently incorrect.

If, as the Government claims, the 1970 Act should be construed in the light of the Defense Production Act of 1950, then it is clear that Congress did not intend to regulate all forms of compensation. For, as pointed out in our original memo, p. 20, the 1950 Act authorized the President to impose economic controls over "wages, salaries, and other compensation" (50 U.S.C.A. App. Sec. 2102(b)). The phrase "and other compensation" was omitted by Congress from the 1970 Act, thus warranting the inference that not all forms of compensation were intended to be controlled. Indeed, the President has declined to freeze profits—one form of compensation—on the ground he is not empowered to do so.

The Government seeks to justify imposing controls on fringe benefits by arguing that increases there "are just as likely to increase the cost of doing business without corresponding increases in productivity" (Gov't. Memo, p. 9). By the same token, however, increases in profit margins would also increase the cost of doing business, but we do not see the Government moving to regulate those. In short, the mere fact that Congress could have or should have authorized controls on fringe benefits does not mean that it did so, and Congress' failure to include the phrase "other compensation" warrants the conclusion that fringe benefits were not intended to be controlled.

Similarly, if Congress intended the President to deny employees their right to pay raises under existing contracts, it should have made that fact unequivocally clear. The only argument the Government makes in support of construing the Act to cover such raises (aside from the one, discussed above, that Congress intended its grant of power to have the broadest possible scope) is that it would be inequitable to permit some employees to get wage increases during the freeze while others were denied them (Memo, pp. 6-7). Suffice it to say that such an "inequity" would be lost among the myriad inequities which the President's freeze itself has generated. Employees covered by contracts providing for periodic increases gave up other benefits at the time the contracts were signed in order to secure such future protection. See Plaintiff's Complaint, Count I, ¶9, and

² In footnote 4 of its memo, the Government notes as "relevant" the fact that the 1970 Act "was Title II of Public Law 91-379, the first title of which was an amendment to the very same Defense Production Act as was involved in the *Allen* case." The relevance of this fact is not readily apparent, since Title II, with which we are here concerned, was not an amendment to the Defense Production Act of 1950. The economic controls contained in the 1950 act expired on April 30, 1953, and have never been revived. See 50 U.S.C.A. App. Sec. 2101 (Supp. 1971).

Count II, ¶15. Since employers usually anticipate higher wages by raising prices well in advance, the wage increases provided for in the Union's contracts would not have had an inflationary effect, but would have permitted the employees covered thereby to catch up with the increases in the cost of living during the preceding months. Accordingly, the policy argument offered by the Government for sustaining the freeze on wage increases previously agreed to should be rejected as lacking in merit.

Finally, the Government cites to Section 202 (b) of the Act as evidence of the care with which Congress delegated powers to the President (memo, p. 17). Under that provision, the President is required to make certain findings regarding specified factors before he can take action to "stabilize" prices or wages in "a particular industry or segment of the economy. . . ." By virtue of this provision, it is apparent that Executive Order 11615 is invalid on its face. The President excluded from its coverage profits, interest rates, dividends and raw agricultural products. Thus, since the Executive Order applies to less than the economy generally—i.e., to a "segment of the economy"—the President was precluded by Section 202(b) from exercising his powers under the Act unless he first took into account "the seasonal nature of employment, the rate of employment or under-employment, and other mitigating factors, that prices or wages in that . . . segment of the economy have increased at a rate which is grossly disproportionate to the rate at which prices or wages have increased in the economy generally." The Executive Order does not show that the enumerated factors were taken into consideration when the President imposed controls on a large segment of the economy, and so the Executive Order is void.

CONCLUSION

For the foregoing reasons, and for the reasons set forth in our main memorandum, we respectfully submit that a three-judge court should be convened and that the Court should preliminarily enjoin the enforcement of Executive Order 11615 and the Economic Stabilization Act of 1970.

ALBERT GORE,
SOLOMON I. HIRSH,
JERRY D. ANKER,
Attorneys for Plaintiff.

SEPTEMBER 28, 1971.

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing Plaintiff's Reply Memorandum in Support of its Motion for a Preliminary Injunction was served on September 28, 1971, by first class mail, postage prepaid, on the parties below:

L. Patrick Gray, III, Esq., Assistant Attorney General, Department of Justice, Washington, D.C., and Thomas A. Flannery, Esq., United States Attorney, United States Court House, 3rd & Marshall Place, N.W., Washington, D.C., attorneys for the Government Defendants.

Richard J. Wertheimer, Esq., 1229 19th St., N.W., Washington, D.C., 20036. Attorney for Hygrade.

Lawrence Wood, Esq., 1750 Pennsylvania Ave., N.W., Washington, D.C., 20006. Counsel for Wilson-Certified, Wilson-Sinclair, and Wilson Beef & Lamb.

Robert J. Corber, Esq., Steptoe & Johnson, 1250 Connecticut Ave., N.W., Washington, D.C., 20036. Attorney for Armour & Co.

Charles A. Horskey, Esq., Covington & Burling, 888 Sixteenth St., N.W., Washington, D.C. 20006. Attorney for Swift & Co.

SOLOMON I. HIRSH.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I rise in

¹ The Court expressly refrained from passing on the constitutionality of the substantive provisions of the wage and price controls imposed by the 1950 Act, finding that the employer had failed to exhaust its administrative remedies. 347 U.S. at 553, n. 22.

opposition to the amendment offered by the gentleman from Georgia (Mr. STEPHENS) which would eliminate the retroactive feature covering pay increases obtained during the 90 day wage-price freeze.

I think it is quite clear to everyone here that the President's phase I and phase II programs are heavily weighted in favor of big business. This "trickle down" theory of pouring billions into the hands of the "fat cats" does not help the middle and lower income wage earner at all.

The committee modified the President's plan a little so that persons expecting wage increases under previously negotiated contracts would receive them. This is only fair.

The Federal Government does not have the right to nullify contracts properly entered into by labor and management. Yet this is what we would be doing if we permitted the President to eliminate all retroactive payments of wage increases.

Teachers particularly should be granted their retroactive pay increases. This group of workers more than any other has suffered greatly as a result of the wage-price freeze and the phase II controls. Teachers are generally paid on a 9-month-school-year basis. Thus, they were hit hardest by the freeze. Now to deny them normal increases—especially longevity increases—would be asking them to bear a far greater burden of the fight against inflation than almost anyone else.

I believe we have given big business enough in this bill to permit the retroactivity portion for the wage earner to stand. It provides a minimum degree of balance to the bill.

Moreover, any attempts to eliminate the exemption for the working poor and those with substandard wages should also be defeated. To deny those who are barely making a living a sizable increase in salary is virtually inhuman. Whether we have inflation or deflation we should continue every effort that will help raise the standard of living of our lowest paid workers. To do less would be unconscionable.

Mr. Chairman, I strongly urge that this amendment be defeated in the interests of every hardworking American and in the interests of the national economy as a whole.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BRASCO).

(By unanimous consent, Mr. PATMAN yielded his time to Mr. BRASCO.)

Mr. BRASCO. Mr. Chairman, again I urge this Committee to support the Minish amendment and to vote against the Stephens amendment.

Let me say this: the amendment of Mr. PIKE to the Stephens amendment, which changes the word "permit" to "require" does not really help the situation at all, because what is really the problem is subdivision 2. That is the criteria that has to be applied before the wage increases can be honored.

They are specifically, prices have been raised, taxes have been raised, and appropriations have been made or funds have been authorized, raised, or provided for in order to compensate for such in-

creases. This places an impossible burden on labor. Indeed what this does is it codifies the already existing guidelines used by the Pay Board now.

And under those guidelines, the Pay Board has said that there shall be only a 5.5-percent increase and only some industries would receive it retroactively. They are being so selective that if we adopt this amendment, which in turn is the Pay Board procedure, none of these contracts entered into before August 15 will be honored.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I rise in opposition to the Stephens amendment to the Economic Stabilization Act Amendment of 1971. The language of this amendment speaks to the very controversial and important provisions of this bill relating to retroactive pay.

The committee bill provides that retroactive pay under wage agreements negotiated prior to the wage-price freeze shall be paid unless the President, through phase II machinery, should determine that an individual wage agreement is unreasonably inconsistent with increases in the same overall sector of the economy. I agree with Mr. STEPHENS that the language of the committee bill is too broad, in respect to retroactive increases. It is broader than in the Senate bill, for example, which permits retroactive increases that are not found to be unreasonably inconsistent with other increases, but the Senate bill goes on to apply certain phase II standards in determining what is unreasonably inconsistent and what is not. I am inclined to agree with the majority of the Senate which felt that Congress should set some guidelines or standards for the President to determine what Congress means by unreasonably inconsistent.

The Stephens amendment, on the other hand, does not go far enough. It applies the seemingly reasonable principle that retroactive pay increases should be granted only in cases where it can be demonstrated that the firm, school district, or other entities involved had already increased prices or taxes or other sources of revenue in anticipation of having to pay the negotiated increase. This approach, instead of eliminating inequities caused inadvertently by the timing of the August 15 phase I announcements, could in fact complicate and perpetuate such inequities. In the case of school districts, for example, where tremendous inequities have occurred as a result of the freeze, it would be difficult if not impossible to apply the Stephens amendment in an equitable way. One school board, having signed a wage agreement with its teachers in July, may have acted immediately to increase tax rates to pay for the increase.

In other cases, and also inadvertently, the school board meeting at which tax rates were to have been taken up may not have been scheduled until after August 15, and in those cases, tax rate adjustments to compensate for negotiated increases may have been postponed because of the freeze announcement. Thus, under this amendment, it would still be possible for teachers in the same build-

ing with the same seniority to receive different rates of pay for the same work, and for some teachers to receive lower rates of pay than newer, less experienced teachers who have received new pay rates as a result of regulations of the Cost of Living Council during the freeze period.

While many have raised the argument that retroactive increases, as provided by the Senate and the House committee bill, should not be granted because there are many industries and institutions which did not increase wages and taxes in anticipation of increased wages. Despite several attempts by members of the Banking and Currency Committee to determine from the Department of Labor and the Treasury Department just how extensive this problem would be, in terms of numbers of workers, and numbers of major contracts, no specific information could be obtained. It would seem to me that whether Congress finally enacts a retroactive pay provision similar to the Senate or House committee bill, or one somewhere in between, the Pay Board and Price Commission could work hand in hand to work out any special cases which would arise in this area.

The requirement of the Stephens amendment that retroactive pay be granted only where it can be shown that price or tax increases have already gone into effect in anticipation of wage raises, would create severe administrative and bureaucratic problems, bringing innumerable and conflicting cases before both the Pay Board and Price Commission. These panels would be forced to consider whether the combined effect of price or tax increases, productivity increases and profit rates would or would not justify retroactive pay in each case. Thus, not only would the Stephens approach not eliminate inequity, it would be extremely cumbersome to implement.

Mr. Chairman, I believe that it is extremely important that the President's economic program receive the broadest degree of public support and cooperation possible, from every economic sector. Phase II was specifically designed to end and correct some of the severe inequities caused by the 90-day wage-price freeze. One of the greatest inequities lies in the field of pay increases negotiated prior to the freeze, but deferred or canceled by the timing of the President's announcement. While there have already been problems winning the full cooperation of labor groups for phase II programs, the answer to these disagreements does not lie in making those workers who have suffered severe inequities the whipping boys of the fight against inflation and for productivity improvements.

A solution to the retroactive pay problem must be found which does not defeat the purpose of phase II controls, and which does eliminate the most glaring inequities caused during phase I. The Stephens amendment does not fill this requirement, and the committee language may go too far in the other direction. One alternative approach I have considered is to offer retroactive pay to November 14, the date phase II began. This would still exact severe sacrifices from some whose wage agreements were

signed prior to the freeze, but it would not undo any of the progress we have made during the phase I freeze. This approach, or a reasonable compromise between the Senate bill and the present House committee language, would be far more acceptable from every standpoint than the overly restrictive provisions of the Stephens amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in strong support of the Stephens amendment as amended today.

Without the Stephens amendment, the President and the Pay Board are stripped of their power to stabilize the economy during the original 90-day freeze period.

Without the Stephens amendment, we will mandate by law another large, but not a majority, class of Americans as a special group with special privileges. We are still asking for equality of sacrifice. The Stephens amendment takes us closer to equality.

The Stephens amendment gives positive assurance to teachers that they will get their increases. I have stated since September that the Pay Board should adopt the principles of the Stephens amendment. I have publicly urged the Pay Board to do so because I wanted equity for the teachers of my State. I believe the Stephens amendment gives teachers a fairer shake than the Minish language now in the bill.

Mr. Chairman, if we don't pass the Stephens amendment, we will be delaying the stabilization of our economy, and perhaps denying equity to large groups of our wage earners. I urge its immediate passage.

(By unanimous consent, Mr. FRENZEL yielded his remaining time to Mr. McKINNEY.)

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, it should be very obvious to all of us that economic stability in our Nation is both our No. 1 objective and our No. 1 problem. The standby authority for wage-price control provided by Congress has served as an important vehicle in the hands of the President in the efforts to bring order out of seriously threatening economic chaos. However, this is only a beginning in the difficult problem of securing the continuing cooperation and support of all segments of the economy. This must be achieved or we shall lose all we have gained and more.

Mr. Chairman, I feel that it should be obvious the Stephens amendment is essential if we are to continue to have an orderly wage-price control program, with sufficient flexibility to permit sound application and a successful outcome and I strongly urge its adoption.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I am going to support the Stephens amendment because I think it is fair. I think it is mandatory and I think it is just.

Mr. Chairman, the President must provide for these wage increases, these ret-

roactive wage increases, if he does two things. First, he has got to find that the wage increase was provided for by law or there was a contract for such increase, and the second thing is that the employer has got the money set aside with which to pay these retroactive increases. If the employee met the first test, then the President must decide if the test of subparagraph (B) has been met. If that simple test is met the pay increase is required.

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

The Chair recognizes the gentleman from Michigan (Mr. BROWN).

(By unanimous consent, Mr. BROWN of Michigan yielded his time to Mr. ANDERSON of Illinois.)

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. Mr. Chairman, let us take a cold, hard look at the Stephens amendment and recognize it for what it is.

The Stephens amendment states:

The President shall permit any wage increase negotiated in contracts prior to August 15, 1971, if prices have been increased, taxes have been raised or appropriations have been made to cover these wage increases.

Mr. Chairman, with all due respect for my esteemed colleague from Georgia, this amendment says absolutely nothing because it merely repeats the authority already granted to the President by the Economic Stabilization Act.

Ironically, the Stephens amendment runs counter to the expressed aims of the phase II program. The President and his advisers have repeatedly said that they want to check inflation through increased productivity and a reduction in costs. This is the way they see to revitalize the economy in terms of strengthening our ability to compete and to stabilize the economy. But instead of achieving these things, the Stephens amendment would provide pay increases only on the basis of increased prices or increased taxes. It would not reward workers for achieving greater productivity. In fact, it would penalize increased productivity because no benefits for the workers would come from it.

Mr. Chairman, let us not adopt an amendment that would bring complete confusion if not disaster to the phase II program. Let us adopt the Minish amendment in H.R. 11309 as it was reported by the House Banking and Currency Committee. That amendment simply states that the President must grant wage increases negotiated prior to August 15, 1971, unless he finds such increases are unreasonably inconsistent with wage increases that were generally being made in the economy at the time the contracts were being negotiated. It does not go to contracts that were negotiated after the start of the President's economic stabilization program. It does not in any way tamper with the President's authority to conduct economic stabilization efforts following the start of the economic stabilization program.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Chairman, I am going to vote against the Stephens amendment. I do not know how the test spelled out about appropriations and taxes could be met, but I think it could be very easily evaded. It is my judgment that the language is very badly drafted. It is part and parcel of the inconsistencies which are clearly apparent in the application of the guidelines throughout phase II.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. CHAPPELL).

(By unanimous consent Mr. CHAPPELL yielded his time to Mr. ASHLEY.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, what the Stephens amendment does is to distinguish between two categories of retroactive and deferred pay increases that were put in abeyance by virtue of the freeze.

One category includes those pay increases which were accompanied by a price, tax or budgetary adjustment to accommodate pay increase. The Stephens amendment would direct the Pay Board to permit these increases to be paid and thus would directly take care of the situation facing teachers and others in like circumstances.

The second category of retroactive and deferred pay increases is comprised of those provided for by contract but where there was no price or other increase to accommodate or offset the pay raise.

For this category of retroactive and deferred increases, the Stephens amendment relies upon the directive language of section 203, paragraphs (b) and (c) (1) on pages 16 and 17, respectively, which together require their payment unless the increase is found to be unreasonably inconsistent with the standards adopted by the Pay Board.

It is worth noting that the standards set forth in paragraph (b) are the standards currently being used by the Pay Board in considering and acting affirmatively on certain retroactive pay increases.

I think it is important, from the standpoint of legislative history, to underscore the intent of Congress that the Stephens amendment, together with the language of section 203, provides separate tests for the two types or categories of retroactive pay increases. The general language in section 203(b) is intended to be used, *inter alia*, as the test to determine whether or the extent to which retroactive pay increases should be permitted with respect to contracts entered into before August 15, 1971, but suspended because of the freeze. The language in section 203(c) (1), of course, would apply to contracts executed prior to August 15, 1971, and scheduled to take effect after November 13, 1971.

The Stephens amendment to section 203(c) (2), as we know, would direct the payment of retroactive pay increases where pay and tax increases or appropriate budgetary action has already taken place to accommodate such increases.

With respect to that part of the

Stephens amendment which would strike title XVI, this is clearly necessary if the ambiguity is to be resolved between the language of section 203, starting on page 15, and section 216, starting on page 35.

These two sections are clearly contradictory.

Section 203 says that retroactive and deferred increases shall be paid if such increases are not unreasonably inconsistent with standards promulgated by the Pay Board.

Section 216, the Minish amendment, on the other hand, says that all retroactive and deferred increases must be paid unless they are found to be unreasonably inconsistent with the rate of pay and salary increases in the economy generally. This is a much broader test, quite clearly, and, in my view, is one which would jeopardize the entire effort to bring stability to our foundering economy.

I, therefore, urge adoption of the Stephens amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. McKINNEY).

(By unanimous consent, Mr. ROUSELOT yielded his time to Mr. McKINNEY.)

(By unanimous consent, Mr. WIDNALL yielded his time to Mr. McKINNEY.)

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, in my entire time in politics as minority leader in the State of Connecticut, and in this House, I have pledged each and every single thing I have done to the teachers in my State, and I continue to pledge it to them.

I have never heard of people being more misled about what an amendment does. If the Minish amendment is passed, take a very simple look at what you are doing to this Nation. You are saying that the 18 to 20 million contracted laborers in this Nation will automatically get a wage increase regardless of what has happened. But what about the 60 million Americans who work and who do not have a contract? What about the 60 million workers who do not have this ability to put the muscle of organized labor behind them? Those are the people who will get stuck with the price increases that we are going to put in by the automatic assumption of the Minish amendment. Teachers and State employees, every single teacher in this Nation, regardless of what the fiscal year is in that State, regardless of when the contract was written, will get the money due them. Their contracts are law and will be honored.

I am amazed that we can get into confusion on the word "permit" when it follows the word "shall"—what will we permit? And we even changed that to require. We are simply saying that any law which was stopped by the freeze shall now be permitted. In fact, now we are saying it shall be required to be accepted. So that every teacher, every State employee, will get their increase.

Now, what are we doing? We are putting two exceptions down at the bottom. We know that under law all States of

this Union, if a State employee or a teacher has been granted an increase, that State, that school board, that county district, or what have you, must balance its budget. It is in violation of the State constitution if it does not. So that by the very recognition of an increase, by the very granting of a contract, regardless of at what level it was granted, they said, "Yes, we will collect the money." We do not do that in this Congress because we print it here. But we still have said it when we authorize an increase for Federal employees. So that is the law.

But at the same time we are saying to the rest of America, "Look, if there has been no action to inflate the economy, the contract should live under the rules, if General Motors has raised their prices, if the meatpackers have raised their prices in anticipation of a wage increase, then the contract with the workers must be honored. They are certainly owed the money for more than management is deserving of the profit.

It has been said that this amendment has a little in it for everyone. It may be right. It is an attempt to go between two terrible extremes. It is an attempt to build a mechanism which will attempt to be fair.

The CHAIRMAN. The time of the gentleman has expired.

The CHAIRMAN. The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

(At the request of Mr. BARRETT, the time allotted to him was granted to Mr. ST GERMAIN.)

Mr. ST GERMAIN. Mr. Chairman, I think there should be a few other things pointed out.

Under the Stephens amendment, the burden of proof is on the employees. They have to prove that the conditions existed. This is why teachers are against it nationally. Something like 17,000 different school districts, which have to employ attorneys to make their case.

The point is here that this is not a big union amendment, the Minish amendment. It covers all contracts and, believe you me, the majority of the smaller contracts affected are nonunion contracts or they are the contracts entered into by little unions. These are the unions that cannot afford to employ high priced counsel to prove their case.

By adopting the Minish amendment we, in effect, give to all of those who are entitled to their increases under the contract, those increases.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. STEPHENS).

Mr. STEPHENS. Mr. Chairman, I appreciate the careful attention that has been given to my amendment.

Let me point out that arguments were raised as to the terminology by Members who are opposed to this amendment. We have corrected the terminology as they propose, and they are still opposed to the amendment.

So those arguments about what words ought to be put in the bill so far as words were concerned are out of this debate. This should make it possible for those gentlemen to vote for my amendment if they were serious.

There is no way in the world that I am trying to harm anybody by my amendment. All I want to do is to get the inequities out of the Minish amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the Stephens amendment. It is essential, I believe, to avoid an inflationary ripple effect throughout the entire economy.

We are not simply looking at a small percentage of the national wage bill in isolation. No economic decision is taken in a vacuum.

The adoption of the Minish amendment is going to put irresistible pressure on the Price Commission to abandon its position of no price increases to cover retroactive costs.

Mr. Chairman, I support this amendment because I am in complete agreement with the words of my colleague on the Banking and Currency Committee, the gentleman from Michigan (Mr. BROWN), when he said during the general debate yesterday:

The first responsibility of this body, it seems to me, is to act properly as a legislative body, and not as a pay board, price commission, an interest and dividend commission, or any other body which may be delegated by the President the implementation of our economic stabilization program.

Mr. Chairman, I think that statement is precisely on target because we simply do not have the expertise and detailed information available before this body to make accurate and equitable judgments as to how the stabilization standards and regulations should be applied in concrete situations. In particular, I would like to point out that yesterday the gentleman from New Jersey (Mr. MINISH) presented some evidence designed to support the thesis that in his words—

Most of the people involved in deferred and retroactive pay are low and moderate income families . . . who are not among the affluent.

Well, I have obtained some information from the Bureau of Labor Statistics, as to major contracts involving more than 1,000 workers, in which deferred increases or new increases came due during the freeze. And after looking at that data I would ask whether you think construction workers are among the underpaid and low-income families that would be hurt if we deleted his amendment. Let me just give you a few examples of the deferred increases that were due in construction during the freeze period:

	Per hour
Associated General Contractors, southern California	\$0.85
Philadelphia electrician workers	1.05
Plumbing and pipefitters, southern California	.85
Plumbing and pipefitters, Boston	1.30
Laporte, Ind., carpenters	.90
Baltimore carpenters	.70
Rochester electrical workers	1.00

These are just a few examples. Moreover, I would ask the gentleman: does he think that members of the Teamsters Union are underpaid, represent low income families? Yet there were scores of

local teamsters contracts all across the country that called for a second year increase of 25 cents an hour during the freeze period. Is it all that unfair to ask these well-paid workers to share in the sacrifices that all Americans were asked to make during the freeze?

I would also ask the gentleman whether he think members of the packinghouse workers union, who are already earning over \$4 and hour are part of this underpaid group of which he speaks. Yet members of this union were scheduled to receive increases ranging from 25 cents an hour to 50 cents an hour in plants all across the country. The same point can be made concerning rubber workers, transportation equipment workers, and a whole range of other groups that were scheduled for second and third year increases during the freeze.

Mr. Chairman, my point is this: The gentleman from New Jersey is just plain wrong if he would lead this body to believe that most of the workers involved in this retroactivity question are low paid workers, as he indicated in his remarks yesterday. The evidence simply does not support that assertion. So if this is the main argument on which the gentleman rests his case, then I do not think he has been very convincing. And this kind of loose tossing about of the "facts" should be ample demonstration of the truth of the statement made by my colleague from Michigan, which I quoted earlier: We cannot decide these questions here on the floor because we do not have the time or the information to consider them carefully and thoroughly. This question of retroactivity is largely one for the stabilization machinery established by the President to work out. Therefore we should adopt the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. MINISH) to close debate.

Mr. MINISH. Mr. Chairman, it seems that some of the people who are opposed to the Minish amendment do not seem to have found the time to read all of the amendment because it says here, and this should clear up any concerns in the mind of the gentleman from Illinois (Mr. ANDERSON) as it relates to the so-called inflationary increases. The Minish amendment says:

This section shall not apply in the case of any wage or salary contract which the President determines has the effect of increasing wages or salaries in the industry or segment of the economy to which it applies which is unreasonably inconsistent with the rate at which raises or salaries have increased in the economy generally.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield for a question?

Mr. MINISH. I do not know what the gentleman is concerned about. This provides full protection, I am sorry I do not have enough time to yield.

But I want to say this—the Stephens amendment is laying the ground rules after the game is over. You are saying that practices have to be advanced and taxes have to be raised and appropriations have to be made. A whole new set of guidelines which teachers and workers

will be unable to meet. We should keep in mind that there are companies in the United States that do not have to raise prices to meet contractual pay increases. You are denying the people, in these plants from obtaining these pay increases. What you are saying to the teachers and others is, "You have to go back and renegotiate the contract that you negotiated prior to August 15."

The fair and honest thing to do here is to support the Minish amendment to require those people who signed contracts to live up to them. The legitimate contracts which were legally entered into prior to August 15.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS) as amended.

TELLER VOTE WITH CLERKS

Mr. PATMAN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PATMAN. Mr. Chairman, I demand tellers with Clerks.

Tellers with Clerks were ordered; and the Chairman appointed as tellers MESSRS. STEPHENS, PATMAN, WIDNALL, and MINISH.

PARLIAMENTARY INQUIRY

Mr. MINISH. Mr. Chairman, will the Chair state the question we are voting on?

The CHAIRMAN. The Chair states that the Committee is voting on the Stephens amendment, as amended by the Pike amendment and the Latta amendment.

Mr. MINISH. Would the Chair state that in effect a vote for the Minish amendment would be a "no" vote on the recorded teller vote about to take place?

The CHAIRMAN. The Chair has put the question. It is for the Members to decide.

The Committee divided, and the tellers reported that there were—ayes 209, noes 151, not voting 72, as follows:

[Roll No. 455]

[Recorded Teller Vote]

AYES—209

Abbott	Clancy	Ford, Gerald R.
Abernethy	Clausen	Forsythe
Anderson, Ill.	Don H.	Fountain
Andrews	Clawson, Del.	Frelinghuysen
N. Dak.	Cleveland	Frenzel
Archer	Collier	Frey
Arends	Collins, Tex.	Garmatz
Ashley	Colmer	Gettys
Aspinall	Conable	Gibbons
Baker	Conte	Goodling
Baring	Coughlin	Griffin
Bennett	Crane	Gross
Betts	Daniel, Va.	Grover
Bieber	Davis, Ga.	Gubser
Bray	Davis, S.C.	Hagan
Brinkley	Davis, Wis.	Haley
Broomfield	Delaney	Hall
Brotzman	Dellenback	Hamilton
Brown, Mich.	Dennis	Hammer-
Brown, Ohio	Devine	schmidt
Broyhill, N.C.	Dickinson	Hansen, Idaho
Broyhill, Va.	Dorn	Harvey
Buchanan	Downing	Hastings
Burke, Fla.	Duncan	Henderson
Burleson, Tex.	du Pont	Hillis
Byrnes, Wis.	Edwards, Ala.	Hogan
Byron	Erlenborn	Hosmer
Cabell	Esch	Hull
Caffery	Eshleman	Hunt
Camp	Fascell	Hutchinson
Carter	Findley	Ichord
Casey, Tex.	Fish	Jarman
Cederberg	Fisher	Johnson, Pa.
Chamberlain	Flowers	Jonas
Chappell	Flynt	Jones, Ala.

Jones, N.C.
Jones, Tenn.
Keating
Keith
Kemp
King
Kuykendall
Kyl
Landgrebe
Landrum
Latta
Lennon
Lent
Long, La.
McClary
McClure
McCollister
McCulloch
McDonald,
Mich.
McEwen
McKinney
McMillan
Mahon
Malliard
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Md.
Mizell
Montgomery
Morse
Mosher

Myers
Nelson
Nichols
O'Konski
Passman
Pelly
Pike
Pirnie
Poage
Poff
Freyer, N.C.
Price, Tex.
Purcell
Quie
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Rousselot
Ruppe
Ruth
Sandman
Satterfield
Saylor
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Skubitz

Slack
Smith, Calif.
Snyder
Stanton,
J. William
Steele
Steiger, Wis.
Stephens
Stuckey
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Vander Jagt
Waggonner
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wyatt
Wylder
Wylie
Wyman
Young, Fla.
Zion
Zwach

NOES—151

Abzug	Gaydos	Natcher
Adams	Gonzalez	Nedzi
Addabbo	Grasso	Nix
Albert	Green, Oreg.	O'Byrne
Anderson,	Green, Pa.	O'Hara
Calif.	Halpern	O'Neill
Anderson,	Hanley	Patman
Tenn.	Hanna	Patten
Aspin	Hansen, Wash.	Pepper
Badillo	Harrington	Perkins
Barrett	Harsha	Peyser
Begich	Hathaway	Pickle
Bergland	Hawkins	Podell
Bevill	Hays	Price, Ill.
Blaggi	Hechler, W. Va.	Pucinski
Bingham	Heckler, Mass.	Railsback
Boggs	Heinz	Randall
Boland	Helstoski	Rees
Bolling	Hicks, Mass.	Reid, N.Y.
Brademas	Hollifield	Riegle
Brasco	Horton	Rodino
Brooks	Howard	Roe
Burke, Mass.	Hungate	Rooney, N.Y.
Burlison, Mo.	Jacobs	Rooney, Pa.
Burton	Johnson, Calif.	Rosenthal
Byrne, Pa.	Karh	Roy
Carey, N.Y.	Kastenmeier	Roybal
Carney	Kazen	Ryan
Chisholm	Kee	St Germain
Clark	Koch	Sarbanes
Cotter	Kyros	Scheuer
Culver	Leggett	Selberling
Curlin	Link	Sisk
Daniels, N.J.	Long, Md.	Smith, Iowa
Danielson	McCloskey	Staggers
de la Garza	McCormack	Stratton
Dellums	McDade	Stubblefield
Denholm	McFall	Symington
Dent	McKay	Thompson, N.J.
Dingell	Madden	Van Deerlin
Donohue	Matsunaga	Vanik
Dow	Meeds	Vigorito
Drinan	Melcher	Waldie
Dulski	Miller, Calif.	Whalen
Dwyer	Mills, Ark.	White
Edwards, Calif.	Minish	Wolf
Flood	Mitchell	Yates
Ford	Mollohan	Yatron
William D.	Monagan	Young, Tex.
Fraser	Morgan	Zablocki
Fulton, Tenn.	Moss	
Gallagher	Murphy, Ill.	

NOT VOTING—72

Abourezk	Clay	Evins, Tenn.
Alexander	Collins, Ill.	Foley
Andrews, Ala.	Conyers	Fugua
Annunzio	Corman	Galifianakis
Ashbrook	Derwinski	Glaimo
Belcher	Diggs	Goldwater
Bell	Dowdy	Gray
Blackburn	Eckhardt	Griffiths
Blanton	Edmondson	Gude
Blatnik	Edwards, La.	Hébert
Bow	Ellberg	Hicks, Wash.
Celler	Evans, Colo.	Kluczynski

Lloyd	Pryor, Ark.	Steiger, Ariz.
Lujan	Rangel	Stokes
McKevitt	Reuss	Sullivan
Macdonald,	Roncallo	Talcott
Mass.	Rostenkowski	Tiernan
Martin	Roush	Udall
Metcalfe	Runnels	Veysey
Mikva	Scherle	Whalley
Mink	Smith, N.Y.	Wilson,
Minshall	Spence	Charles H.
Moorhead	Springer	Wright
Murphy, N.Y.	Stanton,	
Pettis	James V.	
Powell	Steed	

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. HANLEY

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

The Clerk read as follows:

Amendment offered by Mr. HANLEY: On page 34, immediately following line 2, insert a new subsection to read as follows:

"(F)(1) In addition to the number of positions which may be placed in GS-16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed forty positions may be placed in GS-16, 17, and 18, to carry out the functions under the Economic Stabilization Act of 1970, as amended (Public Law 91-379; Public Law 92-15).

"(2) The authority under this Act shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under the Economic Stabilization Act of 1970."

Mr. PATMAN. Mr. Chairman, will the gentleman yield to me briefly?

Mr. HANLEY. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that all debate on all amendments close at 2:30.

The CHAIRMAN. On this amendment?

Mr. PATMAN. On all amendments. That is nearly 2 hours.

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

Mr. BADILLO. Mr. Chairman, I object.

MOTION OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Chairman, I move that all debate close at 2:30 on the bill and all amendments thereto.

The motion was agreed to.

Mr. HANLEY. Mr. Chairman, my amendment adds the provisions of H.R. 11902 relating to supergrades as a new subsection to section 212 of title 2 of H.R. 11309.

The provisions will authorize not to exceed 40 supergrade positions to carry out the functions under the Economic Stabilization Act of 1970. It will require that the additional positions be subject to the existing statutory procedures applicable to supergrade positions. One procedure under 5 U.S.C. 5108(a) requires that the Civil Service Commissioners actually approve the description of the duties which justify placing a position in GS-16, 17, or 18. Another procedure under 5 U.S.C. 3324 requires that the Civil Service Commission actually approve the qualifications of the individual to hold such a position.

The administration bill, as introduced, (H.R. 11309), authorized 40 additional supergrades to be filled without regard to the controls by the Civil Service Commission under either sections 3324 or 5108(a) referred to above.

Our Committee on Post Office and Civil Service recommended to the chair-

man of the Banking and Currency Committee that such provisions should be removed from the bill since legislative matters relating to supergrades were within the jurisdiction of our committee.

I appreciate the cooperation of the Banking and Currency Committee in adopting an amendment to remove the provisions.

In the meantime H.R. 11902 was introduced and referred to our committee. Testimony was received from the witnesses for the Civil Service Commission and the Cost of Living Council. The subcommittee felt that sufficient justification was not presented for the 40 positions but did recommend favorably on the granting of 20 supergrade positions. The subcommittee also felt very strongly that the most important feature of this whole matter is that the filling of any supergrade positions must be subject to the usual civil service procedures required by sections 3324 and 5108(a) of title 5 United States Code.

As I have indicated, the introduced bill (H.R. 11902) provides for 40 additional supergrade positions. The subcommittee's recommendation is for 20. Accordingly, a substitute amendment will be offered which I will support which will provide for only 20 additional supergrades, and will make the necessary technical changes in language to conform the amendment to the provisions that are contained in the amendment proposed by the Committee on Banking and Currency to H.R. 11309.

As I have indicated, when the substitute is offered, I will support the substitute.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

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

Mr. JOHNSON of Pennsylvania. Mr. Chairman, we accept the amendment.

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

Mr. HANLEY. I yield to the chairman of the committee.

Mr. PATMAN. Mr. Chairman, we accept the amendment.

Mr. HANLEY. I appreciate that. I understand that a substitute amendment will be offered which will reduce the number of supergrades from 40 to 20, in which I concur.

SUBSTITUTE AMENDMENT OFFERED BY MR. HENDERSON FOR THE AMENDMENT OFFERED BY MR. HANLEY

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

The Clerk read as follows:

Amendment offered by Mr. HENDERSON in the nature of a substitute for the amendment offered by Mr. HANLEY: On page 34, immediately following line 2, insert the following:

"(f)(1) In addition to the number of positions which may be placed in GS-16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS-16, 17, and 18, to carry out the functions under this title.

"(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the dura-

tion of the exercise of functions under this title."

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

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

There was no objection.

Mr. HENDERSON. Mr. Chairman, my substitute provides for 20 additional supergrade positions rather than the 40 positions authorized by the introduced bill. This is the only substantive change made by my substitute.

In addition, technical changes are made so that the provisions will conform with the provisions of title II, as proposed to be added by the legislation.

My Subcommittee on Manpower and Civil Service was not convinced by the information furnished during the hearings on this proposal, that there is sufficient justification for the 40 positions. The Cost of Living Council has not had sufficient time for a full evaluation of its proposed organization, and has not had sufficient time to present the proposed supergrade positions to the Civil Service Commission for approval. If it should develop at a later time that additional supergrade positions are justified, my subcommittee will give immediate consideration to any request to increase the number beyond 20.

One of the most important features of this legislation is that my bill, and the substitute amendment, requires that the actual job description of these positions be evaluated by the Civil Service Commission, and a determination made as to whether the job description actually justifies a supergrade position. Also, the Civil Service Commission must approve the qualifications of the individual before he can be appointed to one of the positions. These are the usual procedures required for filling supergrade positions.

The Committees on Post Office and Civil Service of the House and Senate are charged with the responsibility of controlling top level jobs in the Federal Government. In this role, our chairman, Hon. THADDEUS J. DULSKI, contacted the Chairman of the Committee on Banking and Currency, Hon. WRIGHT PATMAN, regarding the provisions for 40 supergrades in H.R. 11309, as originally written. Chairman PATMAN and members on that committee, in response to Mr. DULSKI's request, amended subject bill by striking out the provisions for supergrade positions. This was done with the understanding that our committee would consider the needs for additional top level jobs.

The Post Office and Civil Service Committee's Subcommittee on Manpower and Civil Service, of which I have the honor of being chairman, held hearings December 6 on the requirements for additional supergrade positions to carry out the functions under the Economic Stabilization Act of 1970, as amended. We took testimony from officials of the Civil Service Commission and the Office of the Cost of Living Council. As the result of these hearings, I have been authorized

by the Subcommittee on Manpower and Civil Service to make this amendment today, authorizing 20 additional supergrades for this temporary economic program.

My substitute amendment provides for 20 supergrades, namely positions paying between \$28,129 and \$36,000 per year, for the duration of the program outlined in H.R. 11309. The number of 20 is in direct contrast to the 40 provided by the Senate in S. 2891.

I also want to add that this substitute amendment does something else that is most important and that is in direct contrast to the Senate bill. My substitute amendment requires the Civil Service Commission to review all proposed supergrade positions and thereby determine if they actually warrant a GS-16, GS-17 or GS-18 level. The Commission must also certify as to the qualifications for nominees to all supergrade vacancies. S. 2891 circumvented the role of the Civil Service Commission in these two important manpower management controls.

Mr. Chairman, I feel that my substitute amendment is both realistic and quite necessary to make fully responsive the provisions in the bill before us today and I urge the support of all members for this substitute.

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

Mr. HENDERSON. I am happy to yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, we accept the amendment.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

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

Mr. JOHNSON of Pennsylvania. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from North Carolina (Mr. HENDERSON), for the amendment offered by the gentleman from New York (Mr. HANLEY).

The substitute amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HANLEY), as amended by the substitute.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. REES

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

The Clerk read as follows:

Amendment offered by Mr. REES:

Page 19, after line 6, insert the following: "(g) In the exercise of the authority conferred by this title, the President shall take no action which directly or indirectly impairs or detracts from the protections guaranteed by the First Amendment of the Constitution of the United States."

Mr. REES. Mr. Chairman and members of the committee, this is a rather technical procedural amendment. Its purpose when the conferees will be discussing the effect of the first amendment to the Constitution, on "media," is to get into the conference all "media" as covered by the first amendment to the Constitution. It really does nothing to the bill because it says that the President

shall take no action which directly or indirectly impairs or detracts from the protections guaranteed by the first amendment of the Constitution of the United States.

The President will not do this anyway because he has taken an oath of office to support the Constitution. However, in the Senate version of this bill there is an amendment that exempts certain classifications of media from wage and price guideline controls, on the grounds that they are covered by the first amendment to the Constitution.

I, personally, believe that the Senate amendment is a loosely drawn amendment and goes way past the guarantees of the first amendment. But the problem is in defining what is under the first amendment because there are several entities that are covered by the first amendment that are not in the Senate amendment. So, in order to give the conferees the latitude to discuss all of those endeavors under the first amendment, I offer this amendment.

Without this amendment, our conferees would be restricted to discussing only those items that were enumerated in the Senate amendment.

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

Mr. REES. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I am acquainted with the gentleman's amendment, and I agree with what the gentleman says, that this is very necessary. We are willing to accept it on this side, and we hope it is adopted.

Mr. ROONEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

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

Mr. ROONEY of Pennsylvania. Mr. Chairman, I rise in support of the amendment to protect the media from undue influence in the administration of the provisions of H.R. 11309.

I recognize fully that only the broadest possible application of wage and price restraints can achieve the economic recovery we all seek. But in our endeavors to control inflation and strengthen our economy we have no license to run roughshod over the Constitution.

The framers of our Constitution recognized that the free society they envisioned in the United States would be largely dependent upon a free press. Our system of government could not endure without the free flow of information and ideas to the public through the media.

The Constitution clearly states that Congress shall not enact any law to abridge the freedom of the press. Yet any measure which imposes economic restriction upon the press has the potential to abridge the freedom of the press. A free press could be totally destroyed through economic pressures. A free press might be intimidated through threat of economic pressures. In my view, we have a fundamental constitutional obligation to insure that neither will occur.

In the past, Congress has very carefully avoided economic restriction of the press for this very same reason. Communications media were specifically exempted from controls in both World War II and

the Korean war and this House just recently refused to permit taxation of newspaper advertising in the District of Columbia.

Thus, by adopting this amendment we are not granting the media a special privilege. Instead, we are carefully safeguarding a constitutionally guaranteed freedom without which our representative government could not possibly survive.

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

Mr. REES. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. REES). I hope that it will be adopted. It gives the conferees a chance to work out a very technical and important problem.

Mr. REES. Mr. Chairman, I appreciate the comments of the gentleman from Texas.

Again I must reiterate that this makes no change in the bill. Its purpose is to conform to the rules of the House.

Mr. Chairman, I ask for a yeay vote on the amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment offered by the gentleman from California (Mr. REES)—and the gentleman was kind enough to furnish us with a copy of the amendment ahead of time—says that the President shall not violate the first amendment. That is exactly the words of the amendment.

Of course the President cannot violate the first amendment. That is No. 1.

Secondly, the gentleman from California and the author of the amendment (Mr. REES) stated that the motion picture association is the one who is interested in this particular amendment. It is the hope that if we pass this amendment, that the motion picture association should somehow or other in the conference be included under this legislation. I would say to the gentleman that on the face of it, just looking at the words, that I think first of all it is completely meaningless. Our chairman says that this is a very important amendment. I would have to disagree with the chairman on that statement.

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

Mr. J. WILLIAM STANTON. I yield to the gentleman from California.

Mr. REES. Mr. Chairman, in my explanation I said it was for procedural purposes only, so that when the conferees are in conference and discussing the Senate amendments, and discussing whether they are going to exempt anyone under the first amendment, they can look at all those entities covered by the first amendment. The film industry is not in the Senate amendment despite the fact that they are protected by the first amendment to the Constitution. So under the Senate amendment television films and motion pictures could not even be considered by the conferees when they are discussing the Senate amendment. This is merely a procedural vehicle so that our conferees will have the latitude

that they need to consider the first amendment situation. That is all the amendment does.

Mr. J. WILLIAM STANTON. I appreciate very much what the gentleman from California has said, and I would simply like to repeat that this does allow the motion picture industry an opportunity in conference to come back at something that the other body defeated, and that was to be excluded from this legislation.

I admire the gentleman for his attempt, and I certainly would have done the same thing if I had been in his place.

Mr. REES. Mr. Chairman, if the gentleman will yield further, this amendment is the exact language of the amendment that was offered in the Senate by Senators PACKWOOD and WEICKER during the Senate debate, and was voted down by the Senate.

Mr. J. WILLIAM STANTON. Which was defeated.

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

Mr. J. WILLIAM STANTON. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I am just a little bit confused as to why this amendment comes in the form that it does. Are we to not have an amendment that specifically mentions the motion picture media? We are just inferentially, to take this amendment, to include the media, is that the reason?

Mr. J. WILLIAM STANTON. Of course the amendment says that the President shall not violate the first amendment.

Mr. STEIGER of Wisconsin. That is like "did you beat your wife last night?"

Mr. J. WILLIAM STANTON. That is correct.

So what this amendment does is to permit the motion picture industry to come back into the conference, if we pass it.

Mr. STEIGER of Wisconsin. And the other body defeated an amendment including specifically the motion picture industry?

Mr. J. WILLIAM STANTON. As I understand it.

Mr. STEIGER of Wisconsin. I want to join the gentleman from Ohio in opposing the amendment.

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

Mr. Chairman, I understand the reluctance of the gentleman from Ohio (Mr. J. WILLIAM STANTON) to support this amendment. Nevertheless, I think it may be more important than many of us realize.

The Senate, in its infinite wisdom, passed an amendment which I consider totally objectionable in exempting from stabilization controls a large number of the media, the news dissemination outlets.

In my judgment, this was a terrible error, and unwise because it creates another separate class, another loophole, another reduction in the equality of sacrifice that we are all seeking here.

It seems to me that the gentleman from California (Mr. REES) in giving us an alternative would arm our conferees with some ammunition which they could use to resist what I consider to be an objectionable Senate amendment.

Mr. Chairman, for this reason I would urge this body to accept the Rees amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. REES).

The question was taken; and on a division demanded by Mr. PICKLE there were—ayes 46, noes 36.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. GONZALEZ

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

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 19, line 8, after "Section 204. Delegation", strike out lines 8 and 9, and line 10 through "appropriate," and insert: "The President is authorized to create an Office of Economic Stabilization for performance of functions under this title,".

Mr. GONZALEZ. Mr. Chairman, my amendment simply authorizes the President to set up an Office of Economic Stabilization for the purpose of carrying out the program.

Presently, the program is being administered primarily by the Internal Revenue Service which is neither equipped or suitable for the task at hand.

The primary duty of the Internal Revenue Service should be to administer our tax laws, which is an important enough function and duty. It will be difficult enough for the IRS to manage the tax changes that were just legislated yesterday without having the added duty of enforcing a far-reaching and very complex system, as you have already noticed, and a very difficult wage and price control system.

I have been saying this, even if I know it is like a coyote out in the brushwood—but I am appealing to the future to vindicate me even if it is not considered seriously here today. It is already evident that one of the biggest blunders committed in the attempt to carry out the control system has been to use the Internal Revenue Service as the enforcement branch.

As I said, aside from the fact that it is imprudent to burden the Internal Revenue Service with added duties, I believe it an error to make this agency responsible for carrying out economic policy. Citizens who feel that they have been burdened with inequity by one or another of the policies created under this program will be very hesitant to challenge those policies if the IRS is the administering agent, simply because they would fear, and rightly so, that their cause, no matter how justified, would only land them in tax trouble either immediately or at some time in the future. A man would hesitate to complain if he felt that his complaint would only lead to tax harassment.

Historically, this was revealed during a past administration in an altercation with the steel industry, in which an incumbent president sent an emissary to the steel management and said, "Now, if you do not behave, we are going to look into this tax situation of yours with the IRS." The steel industry complied, and there was no question that there was a cause and effect in this approach, and this was done when the president maybe had to resort to it, if you want a rational-

ization, because he had no authority at that time such as perhaps is the case now with the present President.

This sort of tactic might have been justified under the circumstances if we wanted to justify it, but it certainly clearly shows that a precedent has been established that we are charged with knowledge that it is not only likely to happen but it will inevitably happen even if it is not on the presidential level that it happens.

I believe that rather than running a spectre of tax harassment for citizens who complain or who somehow fail to meet the requirements of this program, we should create a new agency solely for the purpose of administering the program.

My amendment is not mandatory. It would merely authorize as did the enabling legislation. It certainly does express a concern on the part of Congress as to this facet of administrative performance, and I sincerely and most urgently request your serious consideration of this amendment.

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

Mr. GONZALEZ. I am delighted to yield to the gentleman from Iowa.

Mr. GROSS. The gentleman from Texas makes an excellent point with respect to the use of personnel of the Internal Revenue Service. However, I am afraid his amendment does not go nearly far enough. It would create an office, but there would then be nothing to prevent the continued use of the 3,000 Internal Revenue Service employees. It seems to me the Internal Revenue Service is oversupplied with personnel if at this time, especially in the months of heavy tax returns, it can continue to contribute 3,000 employees to administration of this Stabilization Act.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. On the question of whether the IRS has all the personnel it needs, let me cite an experience in Baltimore. One of my constituents tried to get in touch with the Baltimore office of the Internal Revenue Service to get some matter cleared up. After waiting for a busy signal for a long time, someone finally answered the phone and said "hold," and that was all the satisfaction my constituent could get.

I asked my staff to check through in the same way. They got the same response. The IRS cannot begin to cope with the problems that are arising. It does not have the staff. It was a great mistake to try to dump this mess on the Internal Revenue Service.

Mr. GONZALEZ. I thank the gentleman. Let me say by way of conclusion, and in reference specifically to the remarks of the very able gentleman from Iowa, we are caught here in a dilemma, and I, for one, am a respecter of the clear line of demarcation which should exist between our legislative functions and the administrative functions of the President. I do not want to tell the President to set up anything administratively.

I think it would be improper. I think it

would be an improper encroachment on our part. I am very much concerned, and I think the future will bear this out, but I think if we cast our vote in the shape of an authorization, it merely indicates to the President that the Congress is concerned about the present role that has been designated for the IRS, and I think any President would be sensitive to the expression of congressional intent and would act accordingly. If in the future it is shown that our fears have been confirmed, perhaps then the Congress could act more specifically and positively.

Mr. Chairman, I urge adoption of this amendment, because it merely authorizes and does not compel anything.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I agree with what has been said by the gentleman from Texas, but I think his vehicle is mistaken and wrong. During committee consideration the committee turned down amendments that would have provided legislative language that would have fixed in the legislation provision for the Pay Board and Price Commission, and so forth. The reason we turned down these amendments was that we wanted to provide maximum flexibility to the administration that is charged with carrying out the stabilization program.

It seems to me that the amendment offered by the gentleman from Texas likewise would impair this Presidential flexibility. I think that it is only fair to recognize that what the legislation does that is before us today is to give broad authority to the President to act to stabilize our economy. We give him this broad authority and say that it is his responsibility to use it effectively. I think that it is a mistake, having given him this authority and having imposed upon him this responsibility, then to say, "But now you are going to have to create an Office of Economic Stabilization." Maybe this is not the way he wants to go about it.

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

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, the gentleman just made a statement that is not in keeping with the intent of our amendment. The gentleman said if we adopt this, we are telling the President he has to set it up. We do not do that at all. It is permissive. It says the President is authorized to set up the Office of Economic Stabilization. It has nothing mandatory about it.

Second, when the gentleman talks about considering this in the committee, we did not consider this in the committee.

Mr. ASHLEY. Mr. Chairman, I decline to yield further. The gentleman is saying I said something I did not say. What I said was that during committee consideration, we considered and turned down amendments that would have provided legislative language to fix in the legislation specific provision for the pay board, the price commission, and so forth. We most certainly did consider that. If the gentleman does not recall it, perhaps he was not present.

Mr. Chairman, I decline to yield fur-

ther. The purpose of the gentleman's amendment is clear. He would strike lines 8 and 9 and line 10, and what these lines say is that the President may designate any function under this title to such officers of the United States as he deems appropriate. Do we mean to take that authority away from him? If we do, by all means let us support the gentleman's amendment.

I think it is a mistake to do so. We give the President responsibility for stabilizing the economy.

Let us not take away from him the flexibility necessary to accomplish this important task.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HANNA

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

The Clerk read as follows:

Amendment offered by Mr. HANNA: Page 37, strike out line 7 and all that follows thereafter down through line 13.

And redesignate the succeeding sections accordingly.

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

(By unanimous consent, Mr. HANNA was allowed to proceed for an additional 5 minutes.)

Mr. HANNA. Mr. Chairman, I have offered this amendment to H.R. 11309 because I want the House to carefully consider what it has been asked to do. There are many controversial subtopics in this bill—each in its own right is an important issue—but I fear that so much attention has been drawn to these subtopics that we may lose sight of the more fundamental issue at hand. And that is, Do we at this time extend the administration's wage and price authority for a year beyond its current course and, in so doing, endorse the administration's economic track record to date? Make no mistake about it—if this bill passes with section 218 intact, it will be viewed by the public and the administration as an endorsement of every action and of every month of inaction since the enactment of the current law.

Now, Mr. Chairman, I think we ought to look very carefully at what we are asked to endorse. In my judgment, we are being asked to endorse a state of confusion and mystery.

A few examples will suffice to make the point. In Monday's Wall Street Journal, Albert Hunt reports what is a classic case of how the current law is being implemented. He reports on the Pay Board's handling of the question of merit pay boosts. The Pay Board issued one policy statement and then reversed itself, saying the first statement was an error on the part of its staff. The article suggests that this is "symptomatic of the disarray and confusion that continues to plague the panel." Pay Board staffers label the situation a "nightmare." The article further states that, even after the second statement on merit pay, the Board members themselves could not agree as to the interpretation of their own guideline.

Mr. Chairman, I ask unanimous consent that this article be included in the Record at this point:

REVERSAL ON MERIT RAISES SAID TO MIRROR PAY BOARD'S STAFFING, COORDINATING WOES

(By Albert R. Hunt)

WASHINGTON.—The Pay Board's handling of merit pay boosts, insiders lament, is proving symptomatic of the disarray and confusion that continue to plague the panel.

In reversing its Nov. 24 explanation of how merit raises should be treated in Phase 2, the board said any such increases that aren't specifically covered by a labor contract will count against the general 5.5% guideline after all, regardless of previous pay practices.

Earlier, several board members and a special background paper put out by the board's staff indicated a directly counter policy, stating that any well-established merit pay plan could continue without counting against the guideline. But red-faced top staffers concede this was erroneous, and the board all along intended to adopt a more stringent policy on merit pay increases—though several board members were unaware of this themselves.

A REAL NIGHTMARE

Some board officials say that they unintentionally created the confusion and misinformation on this issue. "This has been a real nightmare," says Herbert L. Wurth, director of public affairs for the board. "I'm afraid we just put out totally wrong information on merit pay increases."

Even more important, other board members and staffers say, this is only indicative of the tremendous coordinating problems the board is experiencing. There has been a continuing turnover of top staff, and one of the few subjects that the labor, business and public members all agree on is that the internal work of the board has been inconsistent and generally unsatisfactory. "The staff work has been really awful," says one board member, "although it's threatening to get a little better."

In its latest clarification of the merit situation, the board said it wished to make "absolutely clear" that where a labor agreement doesn't exist, any aggregate increase in wages and salaries under any merit or salary administration plan must be part of the allowable 5.5% increase.

Of course, any individual's pay increase may exceed 5.5%, but the aggregate total for any economic unit must be kept within that standard.

If a labor contract specifically covers merit increases, however, that practice may be continued without regard to the 5.5%, officials said. Labor officials explained that under such contracts usually, if the overall pay range for a particular job classification is, for example, \$2 to \$2.25 an hour, then most new workers are likely to begin at the bottom end of that scale.

But, labor officials said, some contracts have provisions allowing workers in this category to receive merit boosts up to the maximum of the range, depending usually on their performance and length of service. These types of existing merit pay practices included in contracts may be continued without counting as part of the 5.5% guideline, the board has ruled.

DUAL SYSTEM

The board readily acknowledges this amounts to a "dual system" on merit increases that favors union contracts. But the official explanation is that "merit plan ranges under labor agreements are narrow, rigidly controlled and don't involve substantial increases in pay."

Merit pay boosts where a labor agreement doesn't exist, however, "are generally wide, flexible, discretionary and do involve substantial increases in pay," the board said. In

some of these instances "the increases often constitute an individual employee's entire wage increase for a given year." Thus, officials reasoned, these increases should be covered by the 5.5% standard.

Before this latest board edict, however, both members of the panel and top staffers were misinterpreting the policy. Shortly after the first decision on allowable merit increases, the board's public affairs department put out a background paper that said: "Where no labor agreement exists, merit pay plans contained in existing pay practices may be continued into the future without counting against the 5.5% guideline."

Also, two business, one labor and one public member of the board gave similar misinterpretations in private interviews. Virgil Day, a General Electric Co. vice president and leading spokesman for the five business representatives on the board, told the Wall Street Journal earlier last week that "well-established merit pay plans," even where a labor agreement doesn't exist, could be continued.

Other board members, however, disagreed with this interpretation and after a Wednesday Wall Street Journal story, brought the matter before the panel again. Then the board settled on the latest general ruling, stating that all merit pay increases must be covered within the 5.5% guideline if a labor contract doesn't exist, although most of the business members remain unhappy with the situation.

But potential problems of interpretation still exist. Elliot Bredhoff, a top lawyer for the Steelworkers union and an alternate on the board, concedes there are still "unanswered questions."

POSSIBLE EXCEPTIONS

For instance, he says, if a contract only vaguely refers to the right of management to give merit boosts but doesn't specifically define the range of these increases, this still might qualify as falling under the contract and thus be exempt from the 5.5% guideline. "The real question here is whether this is an established secondary range and the range of management discretion is fairly well known," he says. "If it is a practice deemed to be part of the contract then it might fall under the labor contract provision for merit."

There also may be cases in the nonunion sector, he adds, where there are tightly controlled merit increase ranges, and these firms could come to the board for an exception. Mr. Bredhoff is considered one of the board's leading experts on this subject.

The leader in insisting on a dual system for treatment of merit pay boosts, members say, was Kermit Gordon, president of the Brookings Institution and one of the public representatives on the panel. A factor in this decision, sources say, was the concern among some public members that unless noncontract merit pay increases were included in the 5.5% standard, colleges and universities and some large companies, such as Eastman Kodak Co., could use the merit provision as a major loophole to grant hefty wage boosts.

Over the weekend, the Pay Board's legal staff tried to refine some of the difficulties in writing further regulations on merit pay boosts, and these may be taken to the full board tomorrow.

ON TURNOVER, "REJECTS"

But, several board members say, it was the lack of a stable and competent top staff that created many of the problems on merit pay all along. "Most of the staff never did understand the merit situation, so they were of minimal help to any of us," says one member.

A major reason for these staffing problems, insiders say, is that until the wage-price legislation clears Congress, the Phase 2 control agencies primarily must depend on specialists on loan from other federal agencies. Thus, there has been a constant turnover that severely has hampered internal operations. The Pay Board, for instance, is on its

second executive staff director, who also will be leaving shortly, and has yet to appoint a permanent staff chief.

A further illustration of the chaos we are asked to endorse here today is provided by James Rowe of the Washington Post. In his article of December 7, he describes the bedlam of the current mechanism. The situation is best summed up in one paragraph, which reads:

Meetings are often so confused that members are not always aware of what they are voting on. Some members have failed to be recorded on an issue because they were unaware a vote was being taken.

I ask the Members of this House to consider whether or not they are prepared, here and now, to endorse this chamber of horrors by granting it an extended lease on life.

Confusion also is characteristic of the Price Commission, as the following story out of the Wall Street Journal suggests:

A BRIEF, UNHAPPY HISTORY: PAY-PRICE INCREASE FORMS

Small firms can be doubly thankful they don't have to report pay or price changes.

The reporting form distributed to larger manufacturers by the Price Commission contains six sections of questions including such toughies (question 11, Part II) as "describe method used to translate cost increase to requested or reported price increase." It also wants precise percentage changes in "direct labor" and also "other labor" productivity.

Then, a few days ago the Commission issued "clarifying instructions." These are nearly as long as the original form and even contain spelling corrections, such as "includable" for "includible." (Both are permitted by Webster's, but the former is preferred.)

Pay Board forms aren't generating confusion because they're not yet out. They were to have been distributed but were so "hopelessly confusing," says one source, that they are being redone.

While the performance on the price side has been given less critical attention, its time will come. Both boards have been guilty of following guidelines unraveling with exemptions. We have all seen the headlines, such as "Price Commission Approves Seven Boosts, Three of Which Exceed the 2.5-Percent-Guideline."

Public confidence will not endure such a record, Mr. Chairman. Nor will it endure the price guideline violations that are bound to occur. As the Wall Street Journal article of December 7 points out, small businesses that are not required to report to the Price Commission are planning to revise prices 10 percent or more upward and keep their workers' pay at current levels. Mr. Chairman, I insert these articles at this point in the RECORD:

[From the Washington Post, Dec. 7, 1971]

FEUDING, NITPICKING REIGN—PAY BOARD CRITICIZED FOR LACK OF CONTROL

(By James L. Rowe, Jr.)

"It can't keep going on like this," one high-ranking observer said of the 15-man Pay Board—set up by the President to administer wage and salary increases during Phase II.

The meetings (swollen with the usual coterie of alternates and staff) sometimes become so unwieldy that members are not always aware of what they are voting on, according to one source close to the board.

The board sits again today—it now meets every Tuesday, Wednesday, and Thursday. If past sessions are any indication, much time will be taken up in procedural questions, nitpicking, and personal feuding, lessening the chance for substantive accomplishment.

"They're going to have to do something different," one official observed.

So far, the administration has not been critical of the Pay Board, though Treasury Secretary John B. Connally told newsmen that as a private citizen he disagreed with the tripartite board's approval of a 16.8 per cent first year increase for soft coal miners—well in excess of the board's own pay guideline of 5.5 per cent per year.

But its decision to approve the over-guidelines wage pay boost for coal miners has been denounced as inflationary by the Price Commission, which allowed only about 60 per cent of it to be translated into higher coal prices.

The Price Commission, presumably is concerned by reports—confirmed last week by management member Virgil Day—that the Pay Board will probably approve "catch-up" arrangements similar to coal for the railroad signalmen (46 per cent over 42 months), aerospace, and dockworkers.

Cost of Living Council executive director Donald Rumsfeld still holds publicly to the line that since the President chose a "participatory" Phase II—one administered by the citizenry rather than by government officials—certain inherent efficiency problems should be expected which retard quick promulgation of guidelines as well as totally tough enforcement.

The 15 Pay Board members include five from management, five from big labor, and five from the public. Unlike its counterpart Price Commission—with seven members from the public—the Pay Board has from the outset been beset by internal rancor.

Last week the rancor on the board got so intense, one source said, that chairman George A. Boldt told labor members he would not stand for any more "rudeness." Labor members often ridicule Boldt in the meetings, and, sources said, are particularly fond of calling public member Arnold R. Weber an administration "hatchet man." According to reports, Weber "goes through the ceiling" at the continued needling.

Meanwhile, the board has yet to devise some of the basic procedures under which it must operate. For example, although beginning Jan. 1, all wage settlements affecting more than 5,000 persons must receive board approval, the board has yet to devise a prenotification procedure.

It delegated to its staff the preparation of a form prenotification units must use. The staff in turn went to the Bureau of Labor Statistics—which came back with a detailed eight-page form. The Pay Board has directed the staff to redo, and simplify the form.

Meetings are often so confused that members are not always aware of what they are voting on. Some members have failed to be recorded on an issue because they were unaware a vote was being taken.

One source cited, as an example of confusion, the recent decision merit increases. Just before Thanksgiving the board issued a guideline on merit raises, which it had to immediately clarify the next day.

Last Thursday after worried businessmen flooded the Pay Board with queries, The Wall Street Journal—with the help of three Pay Board members—put together what purported to be an accurate summary of the Pay Board's policy on merit increases.

But Friday, the Board issued another clarification, which appeared to be in conflict with its ruling—and in points was. Sources said some Pay Board members were surprised that the Friday clarification was actually what they had voted.

In the initial Pay Board guidelines issued Nov. 7, provision was made for five or more

members to challenge contracts they felt to be excessive in terms of the guidelines. But the board neglected to finalize procedures for such a challenge.

Last Wednesday, shortly after the Price Commission refused to allow coal companies to pass through the entire wage settlement, the Pay Board issued its first formal challenge to a contract.

The five business members said they had heard a settlement between the Carey Grain Corp. (which operates one grain elevator at the port of Chicago) and Local 418 of the International Longshoremen's Association was far in excess of the 5.5 per cent standard.

But they knew little more about it than that—and had to ask the Phase II compliance arm, the Internal Revenue Service, to investigate.

But challenge it they did, although the contract covered only nine workers, a spokesman for the union said. If the contract becomes a model for grain elevator operators in Chicago it would affect no more than 200 workers.

One board observer suggested the board's large size contributes highly to its problems. "It's just impossible for 15 men to agree on anything," he said. He suggested Chairman Boldt, in whom the law vests all legal powers of the board, might have to take things into his own hands.

Another said it might go to the "subcommittee approach"—three members "hassle out" the issue and come back with proposals which the board could vote on.

The board is now using this approach on the question of executive salaries and compensation.

A key to the board's future will be its treatment of John Dunlop, the chairman of the Construction Industry Stabilization Committee.

Last week, amid heavy labor objection, the board "temporarily" stripped the committee of its power to rule on wage increases in the construction industry until Dunlop met with the group for a "review." The CISC had approved about 450 contracts granting retroactive payment of wage increases held up by the freeze.

"It will be a sticky fight," one observer said. "Labor is heavily in favor of CISC's activities."

Another said the board would have to "survive this one if its to have any chance at all."

Observers conclude that the Pay Board, in fact, is confused by so many problems that the President may be forced to scrap it and start all over again—though no one in the administration will concede the President has even thought of such a move.

If history is a lesson, a complete breakdown of the Pay Board would not be a surprise. It happened twice during World War II and again during Korea.

[From the Wall Street Journal, Dec. 3, 1971]

PRICE COMMISSION APPROVES SEVEN BOOSTS, THREE OF WHICH EXCEED THE 2.5-PERCENT GUIDELINE

WASHINGTON.—The Price Commission approved seven more requests for price increases. These include a 3.4% boost for electric ranges and refrigerators sold by White Consolidated Industries Inc. that will add 0.076% to the company's annual revenue, the commission said.

In all cases the commission approved the full amounts sought by the companies, but only three exceeded the panel's 2.5% guideline.

Cummings Engine Co. was allowed a 3.2% price increase for diesel engines, which will result in a 1.1% increase in annual revenue, according to the commission.

Allegheny Ludlum Industries Inc. got approval of a 2.76% increase for lawn and turf

equipment produced by its Jacobsen Manufacturing Co. subsidiary. This should add 0.12% to annual revenue, the commission stated.

Heublein Inc. was granted a 2.5% increase for the vodka sold by its Smirnoff beverage division and a 2.34% increase for wines of its United Vintners Inc. subsidiary. The price boosts should add 1.2% to company revenue, the commission said.

Pet Inc. got a 2.3% increase in the price of candies sold by its Whitman chocolates division, which will add 0.1% to annual revenue, the commission disclosed.

A. C. Nielsen Co. got a 1.14% increase in charges for marketing research, which will produce 0.7% more in annual revenue, the commission said.

The increases reflect higher labor and materials costs, adjusted to reflect increases in productivity, or output per man-hour, the commission explained.

The Price Commission also asked coal companies to resubmit any price increase applications with labor costs separated from pension fund maintenance costs.

The Pay Board recently approved the first year of a coal contract which provides for an increase in pay and benefits of more than 15%, but 4.1% of the increase is earmarked for the miner's pension fund.

Earlier this week the Price Commission said it may not allow companies to cover with higher prices any part of a wage agreement exceeding 5.5%. But the commission said it will allow the coal companies to pass on the higher pension payments.

The separation of pension costs from wage costs will help the Price Commission analyze coal company bids to lift prices in response to the wage settlement.

The commission also listed 84 more applications for price increases it had received. For the first time it specified in most cases what products or services would be covered by the proposed increases. So far 354 companies have asked for 423 price increases.

Separately, Monsanto Industrial Chemicals Co., an operating unit of Monsanto Co., said in St. Louis it has applied to raise the price of sodium tripolyphosphate, which is used in making detergents. The requested price increase is 35 cents per hundred-weight, across the board. Carload and truckload prices for technical and feed grades would be \$7.95 per hundredweight for bulk quantities and \$8.70 per hundredweight for bag shipments.

The latest applicants include the following. The first figure given indicates the amount of increase sought and the second represents the impact on the company's total revenue:

Standard Brands Inc., 2.34% for planted products, 0.3%; Ralston Purina Co., 25% for feed, 0.9%; Northwestern Steel & Wire Co., 10% for steel and wire, 2.4%; Hoover Ball & Bearing Co., (three applications), 6.11% for an unspecified product line, 0.06%, 3.48% for another unspecified product line, 0.1%, and 6.3% for trailer hitches made by its Draw-Tite unit, 0.2%;

General Signal Corp., 4.1%, 0.1%; Interstate Brands Corp.'s bread division, 1.8% for bread and related products, 1.2%; Interstate's cake division, 6.4% for cakes and other sweets, 1.2%; Interstate's Baker Canning Co. subsidiary, 1.0% for peas, beans and corn, 0.1%; M.T.D. Products Inc., 5.73% for garden and tools equipment, 0.3%; Bliss & Laughlin Industries Inc.'s coated metallic products division, 5.18%, 0.2%;

Great Northern Nekeosa Corp.'s Nekeosa Edwards Paper Co. subsidiary, 2.5% for paper products, 0.03%; Dow Chemical Co., 0.09% for chemicals and other products, 0.09%; Munford Inc.'s cold storage warehouse division, 1.96%, 0.1%; Anchor Hocking Corp.'s Phoenix Glass Co. unit 8.45% for glass products, 0.2%; Anchor Hocking's Zanesville Mould unit, 12.4% for glass prod-

ucts, 0.2%; Anchor Hocking's tableware division, 10% for tableware, 2.7%; Anchor Hocking's closure division, 8.4% for metal caps and closures, 0.7%;

Dow Jones & Co., 0.08% for advertising rates for Barron's national business and financial weekly, 0.06%, and 2.16% for advertising for Oneonta Star, Pocono Record, Plattsburgh Press, etc., 0.4%; Signal Cos.' Garrett Corp. subsidiary, 3.4% for commercial spare parts price catalog, 0.06%; Dresser Industries Inc.'s Harbinson-Walker Refractories Co. unit, 8.2% for refractory products and other materials, 0.6%; Dresser's Dresser Manufacturing Division, 4.4% for bolted products, clamps, closures, valves, etc., 0.2%; and Dresser's hand tool division, 5.3% for hand tools, 0.2%;

J. P. Stevens Co., 6.03% for 33 different products, 0.1%; Ladish Co., 3.5% for industrial forgings, valves, blades, etc., 3.7%; Sybron Corp., 3.2% for paper, 0.2%; Chrysler Corp.'s Mopar-parts division, 4.4% for automotive parts, 0.2%. Chromalloy American Corp.'s Shunk Manufacturing Co. unit, 4.6% for chemical equipment manufactured blade parts, 1.8%, and Chromalloy's Pockman Manufacturing Co. unit, 7.1% for poultry cages, etc., 3.5%; BASF Wyandotte Corp., 7.58% for soda ash, 1.0%; Kansas Power & Light Co., 0.48% for natural gas, 0.02%, and Central Soya Co., 18% for frozen precooked chicken, 0.01%.

The commission said the following applicants submitted incomplete data. The percentage price increase being requested wasn't "readily apparent in form submitted, requiring further analysis," the commission said:

Allied Mills Inc. for dog food; Brown-Forman Distillers Corp., for bourbon whiskey; Heeger for aluminum products; Pennwall Corp.'s J. F. Jelenko unit for dental gold alloys and dental equipment; Southdown Inc. for Coca-Cola foilage and sale of refined sugar; the city of Bloomfield, Iowa, for natural gas; the Commonwealth of Virginia State Milk Commission for milk.

Also, Michigan Consolidated Gas Co. for natural gas; Tenneco Inc.'s Midwestern Gas Transmission Co. subsidiary for natural gas; Chicago Rock Island & Pacific Railroad Co. for railway fares; Commonwealth Edison Co. for electric billings; Consolidated Edison Co. of New York for gas, electric and steam fuel; National Gypsum Co.'s Gold Bond building products division; Southern Railway System; Cities Service Gas Co.; borough of Metuchen, N.J.; Cutler Hammer Inc., for electronic control package for single customer use; Chromalloy American Corp.; Baker Tools Inc.'s Baker division; Hygrade Food Products Corp. for manufacturing of fresh and processed meats; Earle M. Jorgeson Co. for steel and metal products; United Illuminating Co.; Tappan Co.'s Tappan division for household appliances; Hebrew National Kosher Foods Inc. for kosher food; E. R. Squibb & Sons Inc. for vitamin products, and General Mills Inc. for breakfast foods.

[From the Wall Street Journal, Dec. 7, 1971]

PRICE UNIT APPROVES BOOSTS FOR 13 FIRMS, REDUCES REQUESTED INCREASES IN FOUR CASES

WASHINGTON.—Thirteen more companies got approval for price increases ranging up to 5.7%.

In four of the 13 cases the Price Commission scaled down the requested increases to take into account anticipated improvements in productivity.

Fibreboard Corp., which had asked for a 5.4% increase in paperboard and packaging prices, was granted a 3.6% boost, for an overall impact on company revenue of 2.1%.

Kelsey-Hayes Co., which had sought a 5.02% increase in auto, truck and mobile home parts, got a 4.48% rise. The increase should add 3.6% to annual revenue, the Price Commission said.

Akzona Inc., which had requested a 5.1%

increase in rayon prices, got a 4.9% increase. The resulting gain in overall company revenue should be 3.3%, according to the commission.

Eaton Corp. was allowed increases on four specific product lines—reduced from the amounts requested in three cases—as well as the full 2½% average it had sought for an across-the-board increase.

Eaton got a 5% increase on industrial truck prices, instead of the 5.1% it requested, for an addition to total revenue of ¼%. It got a 4.23% increase in prices of gears, down from 4.55%, for a gain in overall revenue of 0.04%, and a 2% increase in shovel-clutch prices, down from 2.95%, for a revenue boost of 0.02%. The company was granted the full 3.54% increase it sought for drop-forging prices, which should add 0.01% to revenue, the commission said.

The commission said the 2½% company-wide increase was approved on condition that the four specific product-line increases wouldn't bring the average above the 2½% level.

The following companies had their proposed increases approved in full:

Emerson Electric Co., 5.7% for stationary power tools and electric welders. The addition to revenue should be 0.5%.

Kinney Service Inc., 5.7% for janitorial services offered by five of its companies in Pennsylvania, New York, Illinois, Ohio and Massachusetts. The addition to revenue is expected to be 0.05%. Kinney got approval earlier for a 4.7% increase in janitorial services offered by three companies in New Jersey and Ohio. The revenue gain of those increases was 0.07%, the commission said.

J. P. Stevens & Co., 3.95% for cotton material, which should add 1.5% to revenue.

Koehring Co., an across-the-board 3.8% for construction equipment, with an equal gain in revenue.

National Gypsum Co., 3.8% for rock and 2.3% for crude gypsum. The commission didn't state the estimated revenue impact.

American Broadcasting Cos., 3% for selected commercial advertisements. The increase should add 0.59% to overall revenue.

Wyman-Gordon Co., 2.5% for aerospace forgings, which should add 0.8% to overall revenue.

Honeywell Inc., 2.2% for test instruments, which should add 0.04% to revenue.

Stanadyne Inc., 1.3% for cold-finished steel bars and wires, which should add 0.29% to revenue.

The Price Commission also said it received 63 new applications for increases from 47 companies.

Among new applications, First National Bank of Chicago said it asked for a 50% increase in the charges it makes for keeping records for various profit-sharing trusts. A bank spokesman said that recent regulatory changes require that the records be kept in a more extensive form and an outside accounting firm has been hired. He said the higher price won't increase the bank's profit at all. The commission said the proposed increase would boost the bank's revenue by 0.01%.

[From the Wall Street Journal, Dec. 7, 1971]

UNFAZED BY PHASE II: SMALL FIRMS PLAN
RISES THEY NEEDN'T SHOW

(By Alfred L. Malabre Jr.)

Allied Iron Works Inc. plans a 10% price increase early next year, and it faces no requests from or reports to the Price Commission. The Fort Worth maker of decorative architectural products will simply go ahead and boost its prices. The only people who will be told will be the customers.

If a corporate giant tried to do what Allied plans, it would clearly violate Phase 2 regulations. These state that firms with annual sales of \$100 million or more must get Price Commission approval for price boosts and those with sales of \$50 million to \$100 mil-

lion must report boosts. Similarly, companies employing more than 5,000 persons must obtain Pay Board approval for pay hikes, and those employing 1,000 to 5,000 must report hikes.

Allied, however, is no General Motors. It employs 50 persons, and its annual sales are below \$1 million. Accordingly, it's not obligated to request permission for, or even report, price or pay increases. Subject only to government spot checks, Allied is expected to adhere to the general guidelines of 2.5% for price increases and 5.5% for pay raises. But exceptions are allowed where, for instance, costs are exceptionally high. Allied feels its outsize price increase can be fully justified; its labor costs have climbed about 5% in the last year while its prices have fallen nearly 6%.

AN IMPORTANT SEGMENT

Precisely because they are small and don't have to keep government regulators abreast of their doings, firms like Allied tend to be overlooked in all the attention being focused on Phase 2. Yet such companies, taken together, make up an enormously important segment of the overall economic picture. They account for about half of total sales and employ more than 80% of the work force. Clearly, without their cooperation Phase 2 cannot work.

Will they cooperate?

Interviews with executives of several dozen small companies, ranging from steel fabricators to candy manufacturers, provide some clues. The sampling is admittedly unscientific, and perhaps it is too early for lasting conclusions to be drawn. But with those caveats in mind, here are the findings:

—About two-thirds of the companies polled intend to boost prices in the next six months or so; about half of these plan to increase prices by more than the 2.5% guideline. The remaining third mostly claim competition will keep price levels about flat in the months just ahead. A few say they may be forced to cut prices.

—On the other hand, not a single company anticipates giving pay rises above the 5.5% guideline in coming months. Several believe they will be able to continue paying at present levels, and most expect to negotiate only slight increases at most. The main explanation: The labor supply—mostly non-union—is abundant.

—At least half of the executives seem confused about even the most basic Phase 2 regulations. Some mistakenly believe they are required to report price and pay changes. Those executives who do appear clear on the rules generally express delight that they aren't being closely supervised. No company reports it has been spot-checked, and most guess that visits from Uncle Sam will be few and far between, if at all.

LITTLE GIANT'S PLANS

Among companies planning substantial price rises is Little Giant Products Inc., a maker of lift-truck equipment. "We hope to raise our prices on special-handling devices, which account for about 70% of our business, by 8% to 10% next year," says H. G. Sharp, chairman of the Peoria, Ill., concern, which employs 100 and whose annual sales are "well below \$50 million."

In the fiscal year ended last month, during which Little Giant's sales fell 10%, there was no change in these prices, the executive says. But in recent weeks business has been improving, so a price boost is likely to stick, he says. "Phase 2 will affect us less than a big company," Mr. Sharp says, adding that "we're only chicken-feed in the big economic picture."

In most cases where smaller price increases are being mapped, or where no boosts are planned, business hasn't yet shown the pickup that Little Giant is beginning to experience. This sluggishness, rather than any great concern about Phase 2, seems chiefly responsible for any price stability. Such is

the case at Essex Brass Corp., a Detroit producer of lubricating devices for machine tools. Essex boosted prices 5%, on the average, last April, but no new increases are planned "because of the competition," says John Q. Nagel, president.

In some instances, price levels will depend on what will be charged by large competitors subject to direct control by the Price Commission. This is the situation at Electric Hose & Rubber Co. of Wilmington, Del. "What happens to our prices next year will depend entirely on what our big competitors like Goodrich and Goodyear are allowed to do with their prices," says M. R. Karrer, chairman.

Among firms staying well under the 5.5% guideline on pay is Sligh Furniture Co. The Holland, Mich., manufacturer employs about 250 nonunion workers. "We don't plan any pay increases in the near future," reports Charles R. Sligh Jr., chairman. "The economic facts of life, rather than the government's control program, are the determining factor." He says the firm is operating far below capacity and faces "tough competition."

More typical perhaps is the 3% pay-and-benefits increase that Salsbury Laboratories will give 300 nonunion employees on Jan. 1. Dr. J. G. Salsbury, chairman of the Charles City, Iowa, producer of animal vaccine, feels even this increase is most generous in view of the price competition his firm faces. He says, for instance, that the price of a particular chicken vaccine has dropped from eight cents per dose to three cents in the past year, and a further cut to two cents will probably have to be made next month.

Competition is occasionally keeping a tight lid on pay raises even where union employees are present. Essex Brass Corp.'s 50 employees are members of a United Auto Workers local. The company's labor contract expired Dec. 1, without any pay boost—or any strike. Instead the workers, whose last pay hike was in December 1970, are continuing at their jobs on a day-to-day basis, Mr. Nagel says. But he doesn't appear worried by the no-contract situation. He expects that a new agreement eventually will be signed, with provisions for a "moderate" increase. "Our people are glad to be employed," the executive declares.

If business improves next year, as many small firms believe it will, pay increases may get fatter. Government statistics show that over the years wage and salaries of nonunion people, though generally much lower than those of union personnel, respond more quickly to the ups and downs of the economy.

Among executives who appear confused by Phase 2 is Carl C. Wells, president of Modern Welding Co., an Owensboro, Ky., steel fabricator. Modern Welding's sales run about \$20 million yearly, and it employs about 500 workers, yet the executive expresses some worry over having "to make periodic reports" to government controllers. Similarly, Dr. Salsbury of Salsbury Laboratories mistakenly declares that "we would have to get permission" from the Pay Board if any pay rises of more than 5.5% should be given.

Such small companies are subject only to spot checks, and William B. Riley, president of Brock Candy Co. in Chattanooga, Tenn., says: "We haven't heard of any small company like ours being spot-checked." And he adds, "Frankly we don't expect any."

A few firms find themselves in the odd position of qualifying for spot-check treatment in only one category. Woodward Governor Co. of Rockford, Ill., employs over 1,000 persons, thereby necessitating reports to the Pay Board. But its annual sales amount to some \$40 million, so price boosts don't have to be reported. Bruce M. Livingston, a Woodward vice president, says that a "really big year" in 1972 could push sales over \$50 million. "That would be sweet," he says, "but not quite as sweet as before Phase 2 came along."

It must be added at this point that the individual confusion and disarray of the two panels is only exceeded by the lack of coordination of the two. Any economist or layman, for that matter, knows how closely wages and prices are linked in any economy. To successfully stabilize wages and prices, decisions affecting them must be jointly considered. The separation of wage and price supervision, with each panel setting its own guidelines irrespective of the other, seriously reduces the program's chances for success—and yet we are asked to extend it at this time for 1 additional year.

Mr. Chairman, the question of extension should be answered in the negative today and the question raised again next March. We can pass H.R. 11309 today without this section and, in March, take a very simple bill—one page—to extend the program for an additional year. Congress will have made a valuable input into the operation of phase II and will again have the opportunity to review the results. Perhaps the system can be debugged in the next 2 months. If so, we can then offer our endorsement by way of an extension.

If the Congress extends the present law at this time, it will be surrendering one of its greatest responsibilities, that of congressional oversight of the administration.

This responsibility is the cornerstone of our system of checks and balances. We have an obligation to do all we can to insure the proper enforcement and administration of the law. We must hold the administration accountable for its actions. This is, of course, the very reason that the administration asked for this bill—they want to be free of the watchful eye and effective power of the Congress. I ask the Members: Does the administration's track record instill in you a feeling of confidence such that you desire to forfeit your opportunity to review and raise questions about the economic stabilization policy? I certainly have no such confidence at this point.

I wish to make one final point as to the overall economic posture of the administration. Most people seem to have taken comfort in the fact that the President has at least done something at long last. As time passes, however, I think people will reflect on how that something was done and will see that many of the pitfalls could have been avoided if the administration had as great a devotion to planning ahead as it has love for surprise. We all know that the 90-day freeze was entered into without the foggiest idea of what was to follow the freeze. The last half of that phase I was used to construct phase II and, obviously, that job is still not completed. I submit that at least the basics of phase II should have been decided upon before the freeze was imposed. Had this been the case, the freeze would not have had to last as long as it did and we could have moved more smoothly into phase II. Had that kind of forethought and planning characterized the "New Economic Policy," I would not feel so strongly about this issue of extension today. Of course, had that been the case, the President probably would have

had the self confidence to wait until next February or March to ask for an extension if one were necessary.

In conclusion, I urge that the Members vote to strike this section. The Congress should neither extend this disarray nor endorse its stumbling. Let us serve notice that we want to see a more orderly ship before we commission her for an extended cruise.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. HANNA. I yield to the gentleman.

Mr. ROUSSELOT. I want to compliment the gentleman on a careful and precise analysis and bringing to this body the results of what has happened since this wage-price control program began. I support the general concept of the gentleman's amendment.

Mr. HANNA. I thank the gentleman. I hope there will be others not present in this House and those who are here, also, who will recognize the wisdom of what I am suggesting.

Mr. WIDNALL. Will the gentleman yield?

Mr. HANNA. I yield to the gentleman from New Jersey.

Mr. WIDNALL. I would just like to call the attention of the gentleman to the fact that if this amendment is adopted, I think we will have the most utter confusion in the business community with regard to where we are going from here on. This will cut the cutoff date that was accepted by the committee of a year and a half. I think this is necessary in order to develop exactly any programs that may be necessary for the future. This will only preserve uncertainty by doing what you are trying to do. I understand your own approach to it, but at the same time I think it would be a great mistake.

Mr. HANNA. I appreciate the gentleman's comments, but I think if you want to see where confusion is, you just need to look at the reports of the boards and commissions now functioning.

I suggest to you that the Congress is saying what it wants to say in this bill. I am not saying that we defeat the bill.

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

Mr. Chairman, my distinguished colleague from California (Mr. HANNA) is quite right when he says that this House adopted the Economic Stabilization Act of 1970 almost 2 years ago and the President only chose to take action under this authority on August 15, 1971.

However, Mr. Chairman, what the gentleman fails to state is that the President was criticized for not taking action sooner and then he was criticized when he did take action.

He was forced into taking action because we permitted deficit spending to go on unchecked. This fueled the fires of inflation until we forced the President to take action.

Mr. Chairman, the question before us today right now on this amendment is this, Are we going to give the President the power to bring inflation under control and help our economy to recover, or are we going to accept this amendment and say that he has only the power to use these economic stabilization measures until April of next year? If we do

this, no one is going to pay a lot of attention to it.

I am somewhat surprised to find the gentleman from California criticizing the Wage and Price Boards. They were set up well after we started the consideration of H.R. 11309.

Of course, there is confusion; of course, they have to have time to get their feet on the ground. They have only been operating for a matter of weeks; yes, since November. We were holding hearings to report this legislation out back in October.

So I think that the Wage and Price Boards may settle down and do a good job, just as I think the committee ultimately reported out a bill about 100-percent different than the originally submitted bill and 100-percent different from the bill which we had about 2½ weeks ago.

So, I say let us give the President a chance to get our economy back on the track. Let us extend his powers for 1 year. Then, if things get as bad as the gentleman from California (Mr. HANNA) thinks they may get, we can always pass an amendment next year to change "1973" to "1972."

So, Mr. Chairman, I urge the defeat of this amendment.

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

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is entirely true that if we decline to extend the authority contained in the legislation before us to April 1973, then obviously the authority will expire in April of next year. In my opinion this would be a big mistake, Mr. Chairman. It would suggest to the public an unwillingness on the part of the Congress to undertake long-range solutions, or solutions which may turn out to be long-term, to very deep-seated problems which beset our economy at this time.

Mr. Chairman, the argument has been made that this would somehow reinforce the oversight responsibility of Congress. I would submit, Mr. Chairman, that the Committee on Banking and Currency and, indeed, the other committees of the Congress, have the oversight responsibility at any time that they choose to exercise it, and we still have legislative responsibility in this area if we choose to exercise that. So I do not think that the Committee on Banking and Currency will act any more responsibly or responsively by curtailing the expiration of this act to April of next year.

I believe it would be a very serious mistake on the part of this committee to limit the application of this legislation for such a short period of time. Such action would be broadly misunderstood by the public. There would be false expectations that phase II would end at that time. I agree with those who say this would cause very considerable injustice, and I would urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HANNA).

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

Mr. HANNA. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois: At the end of section 220 insert the following new section to read as follows:

"Sec. 221. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

"(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

"(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research, development, and advanced technology and on the training and motivation of the American worker.

"(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

"(b) It shall be the objective of the President's National Commission on Productivity—

"(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

"(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

"(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

"(4) to promote sound wage and price policies in the public interest and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

"(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

"(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

"(c) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups

on a plant, community, regional, and industry basis. Such assistance shall include aid:

"(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

"(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

"(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

"(D) in planning for provision of adequate transportation for employees;

"(E) in the exploration of means to expand exports of the products of United States industry;

"(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

"(G) in the dissemination of technical information and other material to publicize its work and objectives;

"(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (H) of this subsection, as they are applied in foreign countries; and

"(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

"(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

"(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

"(d) (1) In exercising its duties and functions under this Act—

"(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

"(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of efforts and expense may be avoided;

"(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c) (1);

"(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

"(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

"(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

"(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

"(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

"(2) The Commission may accept gifts or bequests, either for carrying out specific pro-

grams which it deems desirable or for its general activities.

"(e) (1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in Section 3(b) through 3(d) above.

"(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provision of Title 5, United States Code, governing appointments in the competitive service, and with regard to Chapter 51 and Subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such Chapter 51 and Subchapter II of Chapter 53.

"(f) There are hereby authorized to be appropriated the sum of \$10,000,000 to carry out the purposes of this section during the period ending April 30, 1973."

Mr. ANDERSON of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be considered as read, printed in the RECORD, and open to amendment at any point.

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

Mr. PATMAN. Mr. Chairman, reserving the right to object, I would ask the gentleman from Illinois if this is the amendment that is in the Senate bill?

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, this is the identical amendment that I showed the chairman, the gentleman from Texas (Mr. PATMAN), earlier today. I have also circulated the amendment among the minority members of the committee. It is an amendment that was agreed to by a unanimous vote of 85 to nothing in the Senate. It would simply mandate the National Productivity Commission, which is now in existence, to set up local productivity councils to address themselves specifically to the problem of trying to increase productivity in the country.

Mr. PATMAN. Mr. Chairman, several of the Members have talked to me about the amendment, and I am inclined to agree with the gentleman, and accept the amendment.

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

Mr. PATMAN. I yield to the gentleman from New Jersey.

Mr. WIDNALL. Mr. Chairman, I want to join with the gentleman from Texas in the acceptance of this amendment. I think it is good, and would be very helpful.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, if I may have the attention of the gentleman from Illinois, in the future I think it would be nice to distribute some copies to the majority members.

Mr. PATMAN. The gentleman did.

Mr. ST GERMAIN. The gentleman showed it to the chairman, and some of the minority members.

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, I would say in response to the inquiry of the gentleman from Rhode Island that I did put this amendment in the RECORD the day before yesterday, and I did show a copy to the chairman.

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

There was no objection.

The CHAIRMAN. The gentleman from Illinois (Mr. ANDERSON) is recognized in support of his amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, during its proceedings to extend the economic stabilization powers of the President, the Senate adopted an amendment offered by Senator JAVITS of New York, by a vote of 85 to 0, which was designed to expand and augment the authority and resources of the President's National Commission on Productivity. This is a simple, yet extremely important amendment, and since it is not included in the language of the bill reported by the Committee on Banking and Currency, I would urge that we add it to the bill we are considering this afternoon.

Mr. Chairman, this economic stabilization legislation is designed to meet extraordinary circumstances and provide unprecedented powers to the President to directly control millions of daily transactions in a trillion dollar economy. Much as I, and I am sure many of you, regret that we were forced to turn to measures so inimical to the free market system that has served this Nation so well in the past, we simply had no other choice. While I expect that the expedient of direct controls will decisively puncture the inflationary psychology that has wreaked havoc with the economy over the last 2 years, controls cannot do the entire job, and they cannot keep us on the path of noninflationary growth permanently, nor should we expect or want them to. Much of the job of defeating inflation—especially over the long run—will depend upon whether we can get the rate of productivity improvement back on its historic track—at a rate of about 3.2 percent annually. This amendment can contribute to the accomplishment of that urgent task by providing a focus for renewed national efforts to spur the efficiency and productivity of the U.S. economy.

Mr. Chairman, during the last 4 years, the productivity growth rate for the private economy grew at less than 1.7 percent annually—almost half its historic average. During that same period, output per man hour for almost all of our leading industrial competitors grew at many times that rate. Let me just briefly give you a few examples: During the period 1965-70, the annual productivity growth rate for Germany was 5.3 percent, for France 6.6 percent, for Sweden 7.9 percent, and for Japan 14.2 percent; even the "sick man" of Europe, Great Britain, had a productivity growth rate almost double our own. In light of these figures, then, is it any wonder that our trade balance has slipped from an annual sur-

plus of nearly \$6 billion in the first half of the decade, to \$3.3 billion in the second half, to \$1.3 billion during the period 1968-70, and now in 1971 to a deficit for the first time in this century?

Mr. Chairman, it would be foolish to pretend that an upgraded National Productivity Commission can turn around our productivity performance single-handedly or overnight; but it can provide the kind of focused national effort and attention to this important factor of economic life that a similar mechanism accomplished during World War II and the Korean war. And if anyone should doubt that these efforts made a difference, I would like to quote the words of Dr. Arthur Burns, Chairman of the Federal Reserve Board and long-time student of the American economy.

During World War II, labor-management committees were established in thousands of war plants as a means of getting maximum production out of resources that were fully utilized. The program worked, because management and labor shared a common interest in solving a problem of paramount importance to the country.

Mr. Chairman, my amendment is designed to help duplicate that kind of cooperative national effort. It would authorize the President's National Commission on Productivity to "encourage and assist in the organization and work of labor-management public committees and similar groups on a plant, community, regional, and industry basis." It would also be empowered to make recommendations and formulate proposals designed to improve our competitive position in international markets, upgrade and increase the output of our work force, develop ways to mitigate the impact of automation and other devices aimed at increased output per man-hour, and to encourage the adoption of employee compensation, profit sharing, stock-ownership systems and other production incentive programs.

Finally, it would increase the resources and funds available to carry on the work of the Commission. While the current Commission is comprised of 27 of the top industrial, labor, and public leaders of the Nation, these are all individuals with their own heavy load of responsibilities; individuals who cannot possibly bear the entire burden of organizing a renewed national productivity effort alone. To do the job, they will need staff, experts, and services of the Nation's most qualified individuals in the area of productivity, yet at present, the Commission has only one professional staff member and one secretary. I think improved productivity deserves a higher place on the national priorities agenda than that. This amendment will provide the able individuals on the Commission with the resources and staff backing needed to mount the major effort that the Nation desperately needs.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from Iowa.

Mr. GROSS. Does this amendment provide for the creation of a committee or of a commission?

Mr. ANDERSON of Illinois. No, this Commission, I would say, in reply to the

question of the gentleman from Iowa, is already in existence. It is the President's National Commission on Productivity. It presently consists of 27 of top industrial, labor, and public leaders of the country. This would provide for further responsibilities and for augmenting the resources of that Commission.

Mr. GROSS. Am I right in assuming that there is no farm or agricultural representation on this Productivity Commission?

Mr. ANDERSON of Illinois. I am sorry I cannot answer the gentleman from Iowa, but I have been informed there are top industrial, labor and public leaders on the Commission. I do not know whether a member of the agricultural community is on the Commission or not, but I agree with the gentleman from Iowa that there certainly should be.

Mr. GROSS. I thank the gentleman.

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

Mr. ANDERSON of Illinois. I yield to the gentleman.

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

Mr. Chairman, the success of our free enterprise system has resulted in large part from the great productivity which has been made possible through improved techniques, labor-saving equipment, and close coordination between the management, production, and distribution segments of American industry. Indeed, the opportunities for combating inflation, holding down over-all production costs, and benefiting consumers throughout the Nation, are made possible through better productivity practices. Mr. Chairman, this amendment offered by my colleague from Illinois (Mr. ANDERSON) authorizing creation of the President's National Commission on Productivity appears to me to be an essential part of an overall economic stabilization program. Mr. Chairman, I intend to support this bill (H.R. 11309) with the Stephens and the Anderson amendments.

Mr. Chairman, the President's economic program already has produced excellent results. The rate of inflation is way down, employment is up, the gross national product is at a record level, and other indices show that the steps which have been taken, so far, are most beneficial to the American economy.

Mr. Chairman, the cooperation of the laboring men and women of our Nation is vital to the ultimate success of our efforts to emerge from a wartime economy to a peacetime economy. They and all us can expect to benefit from an economic stabilization program in which all elements of our society participate equally, and in which all are treated fairly.

Mr. Chairman, I view the President's proposal as logical and necessary under the present circumstances, and I intend to support the bill, H.R. 11309, that we are now debating. I congratulate my colleague (Mr. ANDERSON) for proposing the amendment which will establish the President's National Commission on Productivity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STEPHENS

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

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: On page 25, line 20 after the word "willful", insert the following: "within the meaning of Section 208(a) of this Act."

Mr. STEPHENS. Mr. Chairman, I made an amendment to the bill that would say before a person could make a claim for treble damages, they had to present a claim.

Before that, the way the legislation read, you did not have to present a claim before you asked for treble damages. All you had to do was to go to court.

What I am asking for is a clarification of the word "willful" so it will fit into the criminal liability of the statute which was intended. There might be someone who has willfully charged a price, but does not know that it violates the law. I think it is merely a technicality and makes it conform with the other parts of the statute. In further explanation, the amendment is for clarification and to avoid rendering the proviso to section 210(b) meaningless.

Section 210 provides for private actions to recover overcharges. A proviso to section 210(b) requires that a demand for refund be made before bringing litigation. A demand for refund should not be necessary where a seller imposes prices, knowing that they violate the law or otherwise acts in deliberate disregard of the law. For this reason, the proviso was made applicable only in those circumstances "where the overcharge is not willful."

The use of the term "willful" is appropriate since it is the same term that describes the type of violation which is the subject of criminal penalties under section 208(a) of the act. However, the term "willful" has occasionally been defined to mean only that a person intends to do an act. In this case, for example, that a seller intended to charge the price actually charged. With this kind of interpretation it makes no difference whether the person has knowledge that the price violates the law or that the price might have been set in a bona fide effort to comply with the law.

Accordingly, if the term "willful" is left unexplained, it is possible that the proviso would rarely if ever come into play except for the very limited circumstances of a clerical error. The problem is particularly serious in light of the nature of the Price Commission regulations: The Price Commission does not approve most prices in advance, the regulations are general, are subject to legitimate varying interpretations, and compliance frequently requires the exercise of reasonable judgment. The proviso should apply in any circumstance where there is a bona fide effort to comply with the law.

It will then discourage unnecessary and protracted litigation, and prevent the Federal courts from being inundated with claims which legitimate businessmen would in fact pay were they aware of an overcharge problem.

To carry out the intention of the proviso, the amendment would simply equate

the term "willful" to the same term used in the sanction provisions under section 208(a).

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

Mr. STEPHENS. I yield to the gentleman.

Mr. WYLIE. In view of the uncertainty accompanying certain of the rules and regulations being issued under this act, suppose a person interprets a regulation in good faith and prices his prices or rentals. Thereafter, an official judicial or regulatory interpretation is issued to a contrary effect. Is such an overcharge, under those circumstances, "willful" within the terms of the proviso contained in section 210(b) under your amendment?

Mr. STEPHENS. No. A charge made based upon a good faith interpretation of the law or regulation, cannot be considered a willful overcharge.

Mr. WYLIE. I thank the gentleman.

Mr. PATMAN. Does this reconcile the language in two places?

Mr. STEPHENS. Yes, sir; that is correct.

Mr. PATMAN. I think that is all right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BRASCO

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

The Clerk read as follows:

Amendment offered by Mr. BRASCO: Page 19, after line 6, and the following new subsection:

"(g) No State or portion thereof shall be exempted from any application of this title with respect to rents by virtue of the fact that it regulates rents by State or local law, regulation or policy."

Mr. BRASCO. Mr. Chairman, what this amendment seeks to do, very simply put, is to prohibit any State or portion thereof which regulates rents by law to raise those rents without first coming under the guidelines as set forth in the Economic Stabilization Act, and in view of the fact that this act deals with both wages and prices, it would seem to me to be both fair and just that rents, an integral part of a family's life, be covered by the legislation.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

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

Mr. J. WILLIAM STANTON. It is my understanding that this amendment applies only to New York and Cambridge?

Mr. BRASCO. As I understand it, there are two cities in the country that are under rent control. They are New York and Cambridge. I understand that from counsel. I do not know of any other area to which it would apply.

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

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

Mr. ASHLEY. I think the gentleman has presented a very sound amendment, and I am happy to support it.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentle-

woman from New York, who is the architect of the amendment and has worked diligently for its passage.

Mrs. ABZUG. Mr. Chairman, I want to express my thanks to the gentleman from New York (Mr. BRASCO), who is a member of the Committee on Banking and Currency, for agreeing to offer my amendment. I also want to thank the chairman, Mr. PATMAN, and the ranking minority member, Mr. WIDNALL, for their gracious acceptance of it.

The Price Commission has decided to allow areas which have their own rent control or rent stabilization laws to, in effect, set their own rent guidelines by exempting them from the guidelines on that subject which the Price Commission will soon establish. Unfortunately, however, there has been no sign that the Pay Board will exempt from its 5.5 percent guideline the wages of tenants in those areas.

Under rent control and rent stabilization as they exist in New York City, the tenants of nearly 2 million dwelling units are about to be hit with rent increases of between 7½ and 13 percent, while their wages will not be permitted to rise more than 5½ percent. To permit the ruling of the Price Commission to stand would unfairly penalize millions of people and, in addition, would create an almost unbearable situation for individuals—many of them elderly or handicapped—who live on fixed incomes.

What we are doing with this amendment is saying that the administration cannot limit wage increases and then turn its back on rent increases. Landlords in New York will have to comply with the Price Commission's rent guidelines in the same manner as landlords everywhere else in the country, and if one of them wants to seek some sort of exception to those guidelines, he will have to apply to the Commission in the same manner as a landlord anywhere else in the country.

This is not an attempt to abolish local rent control or preempt any locality from having rent control. It is not intended to prevent any locality from pegging its own rent increase guidelines at a lower level than those set by the Price Commission.

If we really want to stop inflation, and we expect all Americans to share equally the burden of doing this, we must not turn one isolated portion of the job over to a local authority which bears no responsibility for the other portions, lest we get what portends in New York if this amendment is not adopted—rent increases far in excess of wage increases. This amendment is intended to insure that rent increases will not outstrip wage increases, and I urge its adoption.

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

Mr. BRASCO. I yield to the chairman of the committee.

Mr. PATMAN. Mr. Chairman, we have discussed the amendment. We have looked into it, and we are willing on our side to accept it.

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

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

Mr. BROWN of Michigan. I thank the gentleman for yielding. What you are saying in your amendment is that any State or a portion of a State shall not be exempted from Price Board determinations merely by virtue of the fact that it also regulates rents.

Mr. BRASCO. Correct.

Mr. BROWN of Michigan. If there was any other basis for exempting States or portions of States—

Mr. BRASCO. That has nothing to do with it.

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

Mr. BRASCO. I yield to the distinguished ranking minority member of the committee.

Mr. WIDNALL. I thank the gentleman. As I understand, the amendment applies to two municipalities, Boston and New York. There may be a few others, but it seems to me that the situation there is unusual, and we will certainly accept the amendment.

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

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

Mr. LANDRUM. Mr. Chairman, I would direct this question to the chairman of the committee, the gentleman from Texas. In the Senate version of this economic bill there is a provision which states—

(f) For the purposes of this section, the terms "wages" and "salaries" do not include contributions by any employer pursuant to a compensation adjustment affecting less than one thousand employees for—

(1) any pension, profit sharing, or annuity and savings plan;

(2) any insurance plan; or

(3) any disability and health plan; unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for wage, salary, and price increases published under subsection (b).

Would the gentleman give me some idea of how he feels about that provision? It seems to me it is not inflationary and ought to be included in the final version of the bill.

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

Mr. BRASCO. I yield to the gentleman from Texas.

Mr. PATMAN. I am very much impressed with that. It impresses me as being the type of legislation that is needed. If I am not convinced otherwise, I will be in favor of it.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

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

Mr. J. WILLIAM STANTON. I rise only to tell the gentleman in the well that there is an amendment by the gentleman from Indiana on our side which applies specifically to the question which the gentleman from Georgia asked. I think it is the next amendment to be offered.

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

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

Mr. RYAN. Mr. Chairman, I rise to support the amendment to require rent guidelines established by the Price Commission to be applied in areas which have

local rent control laws as well as in those which do not.

It has long been my position that, due to the very difficult financial squeeze in which tenants find themselves, the freeze on rents should continue. To that end, I introduced legislation (H.R. 10945 and H.R. 10946, with cosponsors) which would continue the freeze on rents through the period of economic stabilization, and I testified in support of it before the House Banking and Currency Committee on October 29. I think that it is especially important that the freeze on rents continue in areas where the market has been so tight that local rent controls have been enacted. These are areas which have recognized the importance of holding down the ever-increasing pressures of real estate interests to raise rents.

This amendment provides that States or localities are not exempt from Federal rent guidelines, because of the existence of State or local rent control laws. Of course, the amendment will not preempt local or State rent control laws which are more stringent than guidelines promulgated by the Price Commission.

This amendment is necessary because of the arbitrary action of the Price Commission on November 22. On that date the Price Commission announced that rent increases on rent-controlled units authorized by State and local rent control agencies would be allowed to go into effect.

This action of the Price Commission was outrageous for several reasons. First, in taking this action, the Price Commission violated its own previously announced procedures. On November 12 the Price Commission announced that guidelines for rents would be developed after consultations with the Rent Advisory Board, which had not yet been appointed. In the interim the freeze on rents was to continue. Then on November 22, after a series of meetings with New York City real estate interests, the Price Commission announced that rent increases on rent-controlled units authorized by State and local rent control agencies will be allowed to go into effect. But this decision was reached before the Rent Advisory Board had been appointed. The appointment of the members of the Rent Advisory Board was then announced the next day. This is a totally unacceptable way of carrying out public policy.

The Price Commission's action was outrageous also, because the Commission failed entirely to examine the basis for the rent increases authorized under local law and regulations, which the Price Commission's ruling sanctioned.

In the case of New York City, under amendments to the local law enacted before the period of economic stabilization began on August 15, on January 1 tenants in 1.3 million rent-controlled apartments face 7.5 percent rent increases. Clearly the Price Commission must look into the adequacy of local rent control to determine whether or not tenants will be protected from excessive rents during the period of national economic stabilization.

Such increases would be unbearable in any event, but are especially onerous at

a time when wages and salaries are subject to control.

It is assumed that a tenant pays approximately 25 percent of his income for rent. To restrict wages and salaries and at the same time permit an unregulated increase in the largest segment of a tenant's cost of living budget makes a mockery of the President's program to control inflation.

The ruling by the Price Commission blows a hole in the entire economic stabilization program. By this action the Price Commission allows the rent on private rent-controlled apartments to rise as though wages and prices elsewhere in the economy were subject to no controls whatsoever. It is manifestly unconscionable and unreasonable to allow rents to rise without Federal controls, while the other segments of the economy are subject to Federal controls.

I, therefore, urge most strongly that this amendment be accepted.

I include at this point in the Record my letter of December 1 to the Price Commission in which I urge that—

First. The Price Commission's decision allowing locally authorized rent increases to go through be rescinded.

Second. The Rent Advisory Board be allowed to advise on all rent policy, not just some of it.

Third. The Rent Advisory Board hear representatives of tenants' organizations as well as concerned public officials before an overall rent policy is formulated.

Mr. Chairman, the letter is as follows:

WASHINGTON, D.C.
December 1, 1971.

DR. JACKSON GRAYSON,
Chairman, Price Commission,
Washington, D.C.

DEAR DR. GRAYSON: I was shocked by the Price Commission's decisions on November 22 to exempt from the freeze rents in New York City apartments which had been subject to the freeze but which now face rent increases of 7.5 percent as of January. This was particularly disturbing in view of the fact that the Price Commission violated its own previously announced procedures in rendering this decision. As you well know, on November 12 the Price Commission announced that guidelines for rents would be developed after consultations with the Rent Board, which had not yet been appointed. In the interim the freeze on rents was to continue.

Then, on November 22, after a series of meetings with New York City real estate interests, the Price Commission announced that private, rent-controlled apartments would no longer be subject to the federal freeze when there were local rent control laws. As you know, this decision was made before the Rent Advisory Board had been appointed. The appointment of the members of the Rent Advisory Board was then announced the next day. This is a most unfortunate method of carrying out rent policy.

Now today, according to the New York Times, you have asked landlords to postpone rent increases on residential properties which are not subject to local rent control laws. You ask for the continuance of this freeze on these non-controlled properties until the Rent Advisory Board has had time to develop rent guidelines.

Why was not similar forbearance asked in the case of residential property which is subject to local so-called rent controls?

What effort was made by the Price Commission to evaluate the effectiveness of local rent control laws—whether or not they ac-

tually place a ceiling on rents, are illusory, or have loopholes which negate their purpose. For instance, the 7.5 percent increases, which will be permitted under the local New York City law, was set forth before the initiation of the President's Economic Stabilization Program. It is inconsistent with the underlying policies of that program.

During this period of economic stabilization I have sought to avoid just such a chaotic and unfair situation from developing with respect to rents. On September 28, I introduced H.R. 10945, with cosponsors, which would freeze rentals and carrying charges by statute.

On October 28, I urge the Chairman of the Cost of Living Council to continue the freeze on rents by administrative action throughout phase II of Economic Stabilization.

On November 3, I wrote Secretary Connally urging that there be adequate tenant representation on the rent board, so that decisions rendered would be fair to tenants.

And on November 22, I telegraphed you, urging that no decision on rents be reached prior to appointment of the rent board, and urging further that no decision on rents be rendered without consultation with tenant groups and other concerned parties.

And yet the Price Commission in exempting residential rent-controlled apartments from the federal freeze has now acted in disregard of tenant interests and in violation of the Commission's own procedures. I urge that the decision be rescinded forthwith. I urge that the Rent Advisory Board be allowed to formulate all rent policy, not just some of it. And in formulating that policy I urge that the Rent Advisory Board hear representatives of tenants' organizations as well as concerned public officials before an overall rent policy is formulated.

Sincerely,

WILLIAM F. RYAN,
Member of Congress.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. KOCH. I rise in support of the amendment, and would like to add this one addendum.

Members of the New York delegation wrote to the mayor of the city of New York on the question of keeping New York City under Federal rent guidelines and he specifically responded by saying that the city of New York had not requested an exemption. I am pleased, as are other Members of the New York delegation, that the city will now be included as a result of the adoption of the Brasco amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BRASCO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BADILLO

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

The CHAIRMAN. The Chair might state the Chair is trying to get all the amendments taken care of before the deadline.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO: At page 20, strike out all of lines 13 through 24 inclusive and at page 21 strike out all of lines 1 and 2, inclusive, and insert in lieu thereof the following:

"All information reported to or otherwise obtained by any person exercising authority

under this title which contains a trade secret or process shall be considered confidential, except that such information may be disclosed to other officers, agencies, boards, commissions, or similar entities empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title. All other information received in justification of wage or price increases shall be made available to the public."

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

Mr. BADILLO. I yield to the gentleman from Texas.

Mr. PATMAN. We have studied the gentleman's amendment and it may have some merit.

Mr. BADILLO. Mr. Chairman, I thank the gentleman from Texas.

Mr. Chairman, the heart of this amendment is the last sentence which says that all other information received in justification of wage or price increases shall be made available to the public, and the purpose of this amendment is to implement the statement that is made in the committee report at page 6, which says, "that public disclosure, to the fullest extent possible of the information on which policies, regulations and controls are predicated to carry out the purposes of this title is necessary to achieve and maintain the widest possible confidence, and by the same token, the largest possible degree of public cooperation."

Mr. Chairman, even though the committee says that there should be public disclosure in order to see to it that the public at large will respond positively to this program, the fact is that the section that is incorporated by reference under section 205, that is section 1905 of the Criminal Code, in fact, not only prevents the Price Commission from disclosing what is going on, but makes it a crime to disclose what is going on. The section referred to, section 1905 of the Criminal Code reads, in part, as follows:

§ 1905. Disclosure of confidential information generally.

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by a return, report or record made to or filed with such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work or apparatus, or to the identity, confidential statistical data, amount or source of any income, pending losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. (June 24, 1948, ch. 645, 62 Stat. 791.)

The function of the Commission is exactly to entertain questions that have to do with income and with profits. Unless this amendment is adopted, it means that the Price Commission would be prohibited under penalty of criminal indictment from letting the public know what is going on. It means that the proceed-

ings of the Price Commission would take place by having the corporations applying to the Price Commission and having the decisions being made in a dialog between the Price Commission and the corporations only. That is precisely the kind of secrecy which would discredit the entire Commission, because there are many corporations which are closely held, some of the largest in this country, and they would be able to come to the Price Commission under secret proceedings, get an increase, and the Price Commission would be prohibited from making public the information on which its decision is based.

I think if we believe the Price Commission has an important job to do, and I think it does, we should make the proceedings, except for trade secrets which this amendment provides for, available to the public.

We should give parties who have an interest the right to appear, the right to look at the information being supplied by those who seek a price increase, and the right to challenge it. Under the provisions as they stand now this would not be the case.

Mr. Chairman, everyone who has talked about the phase II program of economic controls, from the President on down, has emphasized that the program cannot possibly work unless it has the confidence and acceptance of businessmen, labor, farmers, consumers, and the public at large.

And everyone, from the President on down, has made the point that phase II will get that kind of confidence and acceptance only if it is basically fair and equitable in the way it allocates benefits and hardships among different groups in the economy.

This amendment is intended to help the program win that acceptance and confidence by giving the American people access to the data submitted to the Price Commission in support of price increase requests by our giant corporations.

If section 205 is approved in the form reported, we will have the following situation:

Benefits obtained by labor in the form of wage increases approved by the Pay Board will be fully in the public domain. Anyone interested can find out exactly what the workers got before the wage increase and what they will get after it. The public will have what it needs to judge whether the Pay Board acted wisely or not.

The same will be true of benefits obtained by a single-line corporation in the form of a price increase granted by the Price Commission. If the single-line corporation is a public company—that is, one whose securities are registered with the Securities and Exchange Commission—it sends detailed quarterly reports to its stockholders and files even more detailed reports with the SEC. The information in these reports, which are in the public domain, can enable an interested party to estimate fairly accurately the effect on profits of a particular price increase.

We have a very different situation, however, where a giant, multiline com-

pany seeks Price Commission approval for a price increase on a single product. Here, it must submit full profit and loss data to the SEC only on a consolidated basis. As far as particular lines of business are concerned, the corporation must report only the respective contributions to sales and income—or loss—without any of the other ordinary financial statement data.

And if the giant company should be closely held and never registered an issue of securities with the SEC, there will probably be no information at all available to the public on which to evaluate the merits of a price increase.

Approval of this amendment would bring into the public domain all information offered in justification of wage and price increases by the category I—prenotification firms, and the category II, reporting firms, as defined in the phase II regulations.

Closely held corporations and multi-line corporations would be disclosing more to the public than they do now, but not any more than their publicly held and single line competitors have been disclosing all along.

It should be clear that this amendment will in no way force disclosure of legitimate trade secrets. It even strengthens the committee bill in that regard by adding after the words "trade secret" the words "or process" to indicate that proprietary technical data, including manufacturing and other secret business processes, that come into the hands of the Price Commission or any of the other phase II agencies will be held strictly confidential.

Another point to remember is the extremely limited percentage of all American companies that will be affected by the full sweep of phase II, and this amendment. For all practical purposes, the Price Commission is going to be concerned only with price increases of some 2,500 corporations.

There are some 1,300 category I firms—those with over \$100 million a year in business receipts. This represents less than one-tenth of 1 percent of the corporate population but about 45 percent of all business receipts.

Category II firms—those with annual receipts between \$50 million and \$100 million—number just over 1,000 and represent nearly 5 percent of all business receipts.

Category III firms—those whose annual receipts are under \$50 million—represent 99.8 percent of the corporate population, but only half of all corporate receipts.

This amendment is intended to insure that regardless of category, there shall be the fullest public disclosure. I urge its adoption.

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

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

Mr. ASHLEY. Would this mean that if a corporation were seeking a price increase and presented itself to the Price Commission with its company books, those company books would be available to the public?

Mr. BADILLO. Not insofar as they

contain information which has to do with patents or trade secrets. But insofar as they contain information which has to do with the income and profits or losses of that company, and the justification for the extent of the price increase, that information would be made available to the public, yes.

Mr. ASHLEY. I agree with the thrust of the gentleman's amendment. I am not sure that the limitation he places on the amendment would conform with general practice. In my view, the amendment would require public disclosure of a whole range of business matters as a condition for applying for a price increase. The amendment goes much too far, in my view, and would be counterproductive in its application. It should be defeated.

Mr. BADILLO. I am a certified public accountant, as the gentleman may know. From a practical point of view the nature of an application for an increase does not have anything to do with patents or copyrights or trade secrets.

The secret which is involved here is that the company is losing money. The application that would be made by the lawyers and accountants would have to do with the justification for the increase. This is the way in which it was operated under the OPA. The nature of the procedure is such that this is precisely the kind of information which should be made public.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I consider this a very dangerous amendment which will submit the business community in this Nation to unusual harassment, as well as customers of business.

For the past 100 years in this Nation we have had a protection to the American people against full disclosure of certain information.

The gentleman is right; under the Freedom of Information Act there is a protection against disclosure of trade secrets and confidential processes.

Likewise under the Crimes Act, in section 1905, there is a protection against disclosure of statistical information by a firm or a person.

The bill in front of us very carefully preserves the protection against disclosure of trade secrets and also preserves from disclosure the statistical information, and says that section 1905 of the Crimes Act shall apply.

The gentleman's amendment would preserve the protection of trade secrets, but would put the door wide open so far as disclosing information is concerned within the realm of commercial transactions.

This would mean that a company which came to the Price Board with its books would give to the public their precise costs, the costs of its labor and material, by product lines or by the entire line. It would mean they would have to make public their calculations of their productivity, their customary price mark-ups, and past and estimated profits on the item. That is confidential information to the particular firm.

What would that mean to the firm, if

the amendment carried? The firm would be inhibited from disclosing this type of information, and so the price board would be without the necessary information it needed.

I know if I were a businessman, and if I had to come before the Price Board, which I would have to do, I certainly would not want, if I were General Motors or any other firm, to give information to that Board which say the Ford Motor Co. could use against me on competitive lines.

The disclosure of this information, protected for the last 100 years, would bring about collusion among competitors and, as I see it, throw fear into anybody going in front of the Board.

They would not disclose what they should disclose in order to have a good ruling. Therefore, I say it would put an unreasonable burden on industry.

Likewise, if this information is made public, everybody would come to the Price Commission on a fishing expedition to read through records and find out what they could. It would put an unusual and unreasonable burden on the Price Board and would be a bonanza to competitors.

Therefore I think it is a dangerous amendment.

We should preserve the protection of the last 100 years written into this act in front of us today and we should vote down this amendment resoundingly.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. JOHNSON of Pennsylvania. Yes. I yield to the gentleman.

Mr. ROUSSELOT. I think the gentleman has been very thoughtful to bring this particular point up regarding disclosure of confidential information under 1905 of the crimes and criminal procedure laws.

I would like to quote from the law, because I know the gentleman from New York certainly wants to live within the law that protects consumers as well as businessmen. "Confidential information" about any consumer's records could possibly be made public unnecessarily and without the consent of the consumer. Let me quote from the law:

§ 1905. Disclosure of confidential information generally.

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with such department or agency or officer or employees thereof, which information concerns or relates to the trade secrets, processes, operations, style of work or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. (June 25, 1948, ch. 645, 62 Stat. 791.)

I think the gentleman has made an excellent point. This law has stood for years. To tamper with it now, to alter and change it and lay customers open to public disclosure that they may not want to have revealed I think would be high handed. I think the gentleman is to be complimented for raising this very important issue.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think perhaps this amendment, with its thrust at the private books and private information of private business, confidential information of private business, is perhaps as convenient a time as any to make a few general and fundamental remarks on this whole subject. I personally would be sorry to see the debate close without somebody making remarks of this character.

Mr. Chairman, we are talking about amendments here. We are talking about an amendment now which is an important amendment. We have had other important amendments, such as the Stephens amendment, which I supported; but the real question before us now is whether we ought to have controls at all. These amendments have as their central issue merely the question of how do we carry out these controls.

I think we ought to think a little bit about the question, how did we get into the position where these controls seem to be necessary. Most of us seem to have arrived at the conclusion that when an inflationary spiral, such as the one we have, faces us we have very little choice but to embark on a system of controls. It is important to think about how we got here, because, as this amendment shows and as every amendment shows, controls are basically antithetical to a free economy and a free society, and they are going to do injustice in many individual cases, even if we conclude that as an emergency measure we have to have them.

Now, how did we get to the point where we are talking about this sort of thing? I submit the reason we have arrived at this point is, first, that we have followed a long-continued and utterly irresponsible course of governmental spending, both in war and in peace, which I think is probably one of the prime examples in history of trying to have guns and butter and bread and circuses in unlimited quantities, without restraint and over a protracted period of time. That causes inflation.

The other thing is that we have permitted, or at least one other thing is that we have permitted, the big labor unions to acquire a monopoly power in this society which no segment in our society ought to be allowed to acquire.

This has built in a steadily accelerating increase in the cost of production, which is growing all the time, is not subject to control, and is not amenable to the ordinary economic processes or to the ordinary methods of checking inflation.

Now, Mr. Chairman, the bill before us does nothing to meet any of these very serious problems. At the most we are putting a legislative poultice on the running sore, while we are not excising the malignancy.

Mr. Chairman, I must regretfully say that I see no indication that this Congress is about to face up, or is about to find the courage to face up, to any of these fundamental problems.

We keep on spending money here like water every day in the week, and we get a bigger deficit every day we are in session.

Mr. Chairman, just a few days ago here there was going to be a modest amendment offered by the gentleman from Illinois (Mr. CRANE) the effect of which, had it been voted on, was to attempt to control the political use of union dues and union funds; but we could not even get a vote on it, due to a smooth working bipartisan coalition which prevented it.

Yesterday we passed a very expensive farm bill of dubious value.

Mr. Chairman, why was the price of corn so shockingly low? Well one of the main reasons why corn is sitting on the ground in the Middle West and cannot be disposed of is because the dock strike has tied up all of the shipping and the corn cannot be moved. The Government of the United States has to stand helplessly by while that condition exists.

Mr. Chairman, I am not antilabor, I am not antiunion labor or anti to any segment of our American society, but I am antimonopolistic power in the hands of anyone, and I say to the committee that unless some Congress, if not this Congress, stands up, and stands up soon, and faces and finds some solutions to some of these problems, we will have more amendments like this one and we will have more controls such as we have in this bill. We will end up, Mr. Chairman, with the loss of our liberty to the point where this bill now pending before us may well look like a pale preview of things to come.

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

Mr. Chairman, I rise in strong support of the amendment.

I would like, with the permission of the Chair, to read a small section of the committee report, because what this amendment really proposes to do is in a sense, if adopted, executing that which the committee report recommends be done.

I quote from the report of the committee as follows:

This section applies section 1905 of title 18 of the United States Code to all information obtained by any agency delegated by the President to carry out the purposes of this Act. Application of Section 1905, title 18, and the provisions of the Economic Stabilization Act as amended in this section, means that all information so acquired may be shared only by other officers, agencies, boards, commissions and similar entities authorized to carry out the purposes of this title and by Federal departments and agencies for use regarding official matters not necessarily related to the purposes of this Act.

It is the intention of your Committee, through provisions of this section, to guard against disclosure of information which would tend to damage the competitive position of persons, organizations, businesses and industries providing such information. At the same time the Committee deems it necessary to point out that it should be recognized by the President and those to whom he has delegated authority, that much of the information obtained in carrying out the purposes

of this title cannot be construed as a trade secret or be classified as otherwise sensitive to those disclosing it. Moreover, it is the view of your Committee that public disclosure, to the fullest extent possible of the information on which policies, regulations and controls are predicated to carry out the purposes of this title is necessary to achieve and maintain the widest possible confidence, and by the same token, the largest possible degree of public cooperation to assure the success of efforts to achieve economic stability. Attention is called to this point in relation to the Administration's often repeated statement that economic stability cannot be achieved without full public support and cooperation.

Mr. Chairman, I take some pride in the fact that this language was incorporated into the committee report at my suggestion when the committee was marking up the bill.

It is important to note that our colleague, the gentleman from New York (Mr. BADILLO) points out that the bill itself, by reference to section 1905, title XVIII, Crimes and Criminal Procedures, specifically would bar the release of any information which relates to income, profits, losses or expenditures. That kind of information surely, is not confidential information relating to trade secrets which is after all that which we wanted to protect from public disclosure.

I agree with the President, and I agree with the gentleman, Mr. DENNIS, who last spoke that if we make our society so restrictive we will end up with a police state. I am for this bill, because we need it, but I am not for extra restrictive measures that are not necessary. If we do not want to have an open society we will bar the public from every aspect of information. If, on the other hand, we want to protect legitimate matters requiring protection, like trade secrets, but make available all other information, we should incorporate the gentleman's amendment in the bill.

I urge the minority to accept that amendment, because I honestly believe it carries out the philosophy which all of us, no matter on which side of the aisle we are on, support, which is an open society.

The CHAIRMAN. The Chair will call to the attention of the Members that, if the remaining amendments are to be considered, the committee is racing against a 20-minute deadline.

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

Mr. Chairman, the Federal Deposit Insurance Corporation would not even reveal to the Comptroller of the Currency the names of banks which are in some difficulty. This is because of the dire results that could be caused by a run on the bank by a lack of confidence in that bank.

If we are going to take the statistical information of a company that may be in some difficulty and has gone to the Price Board to ask for an increase in prices, and make its figures available to the public, that company is going to be in danger of going under. It is going to lose customers. It is going to lose the confidence of its stockholders.

That is why I say we should not tamper with the section of the U.S. Crimi-

nal Code that has been mentioned here before.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BADILLO).

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

TELLER VOTE WITH CLERKS

Mr. BADILLO. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. BADILLO. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. BADILLO, JOHNSON of Pennsylvania, PATMAN, and ROUSSELOT.

The Committee divided, and the tellers reported that there were—ayes 73, noes 275, not voting 83, as follows:

[Roll No. 456]

[Recorded Teller Vote]

AYES—73

Abourezk	Denholm	Miller, Calif.
Abzug	Dow	Minish
Adams	Drinan	Mitchell
Addabbo	Edwards, Calif.	Morgan
Anderson,	Fascell	Moss
Calif.	Fraser	Murphy, Ill.
Anderson,	Gonzalez	Nedzi
Tenn.	Grasso	Nix
Aspin	Green, Pa.	O'Hara
Badillo	Halpern	Patman
Barrett	Hanna	Patten
Begich	Harrington	Podell
Bingham	Hathaway	Pucinski
Brademas	Hawkins	Reid, N.Y.
Brasco	Hechler, W. Va.	Riegle
Brooks	Helstoski	Rodino
Burke, Mass.	Hicks, Mass.	Rosenthal
Burton	Howard	Roybal
Byrne, Pa.	Koch	Ryan
Carey, N.Y.	Leggett	St Germain
Carney	Link	Scheuer
Chisholm	McCormack	Thone
Daniels, N.J.	McFall	Vigorito
Danielson	Matsunaga	Waldie
Dellums	Melcher	Yates

NOES—275

Abbitt	Clancy	Ford, Gerald R.
Abernethy	Clark	Ford,
Alexander	Clausen,	William D.
Anderson, Ill.	Don H.	Forsythe
Andrews,	Clawson, Del	Fountain
N. Dak.	Cleveland	Frelinghuysen
Archer	Collier	Frenzel
Ashley	Collins, Tex.	Frey
Aspinall	Colmer	Garmatz
Baker	Conable	Gaydos
Baring	Conte	Gettys
Bennett	Cotter	Glaimo
Bergland	Coughlin	Goodling
Betts	Crane	Gray
Bevill	Culver	Green, Oreg.
Biaggi	Curlin	Griffin
Blester	Daniel, Va.	Gross
Boggs	Davis, Ga.	Grover
Boland	Davis, S.C.	Gubser
Bolling	Davis, Wis.	Hagan
Bray	de la Garza	Haley
Brinkley	Delaney	Hall
Broomfield	Dellenback	Hamilton
Brotzman	Dennis	Hammer-
Brown, Mich.	Dent	schmidt
Brown, Ohio	Devine	Hanley
Broyhill, N.C.	Dingell	Hansen, Idaho
Broyhill, Va.	Dorn	Harsha
Buchanan	Downing	Harvey
Burke, Fla.	Dulski	Hastings
Burleson, Tex.	Duncan	Hays
Burlison, Mo.	du Pont	Heckler, Mass.
Byrnes, Wis.	Dwyer	Heinz
Byron	Edwards, Ala.	Henderson
Cabell	Erlenborn	Hillis
Caffery	Esch	Hogan
Camp	Eshleman	Holifield
Carter	Fish	Horton
Casey, Tex.	Fisher	Hosmer
Cederberg	Flood	Hull
Chamberlain	Flowers	Hungate
Chappell	Flynt	Hunt

Hutchinson	Mizell	Sebellus
Ichord	Mollohan	Seiberling
Jacobs	Monagan	Shipley
Jarman	Montgomery	Shoup
Johnson, Calif.	Moorhead	Shriver
Johnson, Pa.	Myers	Sikes
Jonas	Natcher	Skubitz
Jones, Ala.	Nelsen	Slack
Jones, Tenn.	Nichols	Smith, Iowa
Karh	Obey	Smith, N.Y.
Kastenmeier	O'Konski	Snyder
Kazen	O'Neill	Staggers
Keating	Passman	Stanton,
Kee	Pelly	J. William
Keith	Pepper	Steele
Kemp	Perkins	Steiger, Wis.
King	Pettis	Stephens
Kyl	Peyser	Stratton
Kyros	Pickle	Stubblefield
Landgrebe	Pike	Symington
Landrum	Pirnie	Taylor
Latta	Poage	Teague, Calif.
Lennon	Poff	Terry
Lent	Preyer, N.C.	Thompson, Ga.
Long, La.	Price, Ill.	Thompson, N.J.
Long, Md.	Price, Tex.	Thomson, Wis.
McClary	Purcell	Ullman
McCloskey	Quile	Vander Jagt
McClure	Quillen	Vanik
McCollister	Rallsback	Waggonner
McCulloch	Randall	Wampler
McDade	Rarick	Ware
McDonald,	Rees	Whalen
Mich.	Rhodes	White
McEwen	Roberts	Whitehurst
McKay	Robinson, Va.	Whitten
McKinney	Robison, N.Y.	Widnall
McMillan	Roe	Wiggins
Macdonald,	Rogers	Williams
Mass.	Rooney, N.Y.	Wilson, Bob
Madden	Rooney, Pa.	Winn
Mahon	Rousset	Wolf
Mailliard	Roy	Wyatt
Mann	Ruppe	Wydler
Methias, Calif.	Ruth	Wylie
Mathis, Ga.	Sarbanes	Wyman
Mayne	Satterfield	Yatron
Mazzoli	Saylor	Young, Fla.
Meeds	Schmitz	Young, Tex.
Michel	Schneebell	Zablocki
Miller, Ohio	Schwengel	Zion
Mills, Md.	Scott	Zwach

NOT VOTING—83

Andrews, Ala.	Fuqua	Roncalio
Annuzio	Gallifanakis	Rostenkowski
Arends	Gallagher	Roush
Ashbrook	Gibbons	Runnels
Belcher	Goldwater	Sandman
Bell	Griffiths	Scherle
Blackburn	Gude	Sisk
Blanton	Hansen, Wash.	Smith, Calif.
Blatnik	Hébert	Spence
Bow	Hicks, Wash.	Springer
Celler	Jones, N.C.	Stanton,
Clay	Kluczynski	James V.
Collins, Ill.	Kuykendall	Steed
Conyers	Lloyd	Steiger, Ariz.
Corman	Lujan	Stokes
Derwinski	McKevitt	Stuckey
Dickinson	Martin	Sullivan
Diggs	Metcalfe	Talcott
Donohue	Mikva	Teague, Tex.
Dowdy	Mills, Ark.	Tiernan
Eckhardt	Mink	Udall
Edmondson	Minshall	Van Deerlin
Edwards, La.	Morse	Veysey
Ellberg	Mosher	Whalley
Evans, Colo.	Murphy, N.Y.	Wilson.
Evins, Tenn.	Powell	Charles H.
Findley	Pryor, Ark.	Wright
Foley	Rangel	
Fulton, Tenn.	Reuss	

So the amendment was rejected.

AMENDMENT OFFERED BY MR. LANDGREBE

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

Mr. RYAN. Mr. Chairman, this legislation extending the Economic Stabilization Act of 1970 contemplates wage and price control machinery which will continue at least through April 30, 1973; and, of course, it can be extended beyond that date. If wage and price controls are to be incorporated into the economy, then it is important to anticipate their impact on various elements in the economy.

I have been very much concerned about the effect of the wage freeze upon substandard wage earners and the working poor who should not be locked into poverty. But that is exactly what happened to many workers during Phase I of the President's new economic policy. Contracts already negotiated and agreed upon, which provided wage increases for the working poor, were not allowed to go into effect.

Therefore, I introduced legislation—H.R. 11406 and House Concurrent Resolution 414 and companion resolutions with 24 cosponsors—which would exempt from the wage freeze any individual whose earnings are substandard or who is amongst the working poor or near-poor, until such time as his earnings are no longer substandard or he is no longer a member of the working poor or near-poor.

On October 29, I testified before the House Committee on Banking and Currency concerning economic stabilization. In that testimony I advocated that the wages of the working poor be allowed to rise freely to the point where they are no longer substandard.

I am pleased that the Banking and Currency Committee recognized the plight of substandard wage earners and the working poor and provided for a well-justified exemption.

Title II, section 203(d) of the economic stabilization legislation before us (H.R. 11309) provides that—

(W)age increases to an individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

The committee report on this bill states:

It is the intention of the Committee that this exemption from control apply to all persons whose earnings are at or below levels established by the Bureau of Labor Statistics in determining an income necessary to afford adequate food, clothing and shelter and similar necessities. (Report No. 92-14, p. 5.)

This exemption for low-paid workers was the substance of my bill H.R. 11406, which the distinguished gentleman from Maryland (Mr. MITCHELL) offered as an amendment in the Banking and Currency Committee. I appreciate very much the support Mr. MITCHELL gave to this amendment and his successful efforts in obtaining its adoption. I also appreciate the support given to this amendment by the gentleman from Wisconsin (Mr. REUSS), the gentleman from New Jersey (Mr. MINISH), the chairman of the committee (Mr. PATMAN), as well as other concerned members of the Banking and Currency Committee.

There is certainly ample precedent for a low-paid worker exemption from wage restraints during a period of economic stabilization. Both the War Labor Board of World War II and the Wage Stabilization Board of the Korean war made provision for workers with substandard wages.

By an Executive order, the War Labor Board of World War II was instructed not to authorize further increases in wages unless it was clearly necessary to

correct substandards of living. The Board specifically exempted from any control any wage increases for workers whose earnings were at or below 50 cents an hour. At that time the Federal minimum wage was 30 cents an hour. Thus there is plenty of precedent for regarding the minimum wage as substantially beneath what is considered to be substandard earnings for purposes of economic stabilization legislation. Now the minimum wage is \$1.60 an hour, and the legal minimum in New York is \$1.85 an hour. Using a similar approach today would exempt from controls any union or nonunion worker with hourly earnings of over \$3 to \$3.50 an hour.

Similarly, during the Korean war, defense production workers were granted an exemption from wage controls if they were paid less than \$1 per hour. At that time the minimum wage was 75 cents an hour.

The plight of low-paid workers certainly warrants an exemption of their wages from restraints during economic stabilization. There are, indeed, millions of families and individuals in this country whose incomes, derived from decent, steady employment, fall below the most meager estimate of what is required for an acceptable standard of living. According to figures released in May of this year, there are some 16 million families in this country who have incomes of less than \$7,000. In addition, some 11 million individuals have incomes of less than \$6,000.

Perhaps several examples will serve to illustrate the difficult circumstances in which low-paid workers find themselves. Workers of District 65, Distributive Workers of America, earn salaries of from \$91 to \$110 a week. Before the freeze, they were scheduled by contract for automatic increases of from \$7 to \$10 a week. In addition, they were scheduled for a cost-of-living increase of \$5 a week. Thus, overall they were slated for about a 12-percent salary increase, which is higher than the allowable 5.5 percent set forth by the Pay Board. Yet even with these increases these workers will still be only making about \$5,800 a year, substantially below the Bureau of Labor Statistics estimate of a \$6,960 minimum budget for an urban family of four.

As David Livingston, president of district 65, pointed out in a cogent letter which appeared in the October 6 issue of the New York Times:

If the President fails to meet the responsibility to those who don't make a living, then the Congress should. If both fail, it would be tantamount to a Government edict to condemn poorly paid American workers to permanent poverty.

A second example of the need to exempt low-paid workers from Government wage restraints is presented by New York Hotel and Motel Trades Council, whose president is Jay Rubin. In view of the squeeze on their wages contemplated by phase II, the trades council, in early October, petitioned the President urging that the following four principles be made part of government policy:

1. Immediate exemption from the freeze of all who earn less than \$125 a week or \$6,500 a year.

2. Establishment of a National Wage Review Board to fairly adjust the wages of those earning more than \$125 a week or \$6,500 a year.

3. Immediate restoration of the right of all workers to bargain for improved health, welfare and pension plans, since such funds are non-inflationary.

4. That all wage adjustments negotiated before the freeze be paid as of the date they were due—and that the government not allow employers to pocket money which contractually belongs to the workers.

The Senate Banking and Currency Committee was also concerned about the plight of the working poor and included in the bill which passed the Senate the following provision—section 203(d) of S. 2891:

No order of regulation issued under this section shall apply to the wages or salary of any individual receiving substandard earnings. The President shall prescribe regulations defining for the purposes of this subsection the term "substandard earning". In no case shall such term be defined to mean earnings less than those resulting from a wage or salary rate which yields, on an annual basis, an income below the poverty level for a family of four (or an appropriated equivalent in the case of workers employed in part-time or seasonal occupations) as prescribed annually by the Office of Management and Budget.

The Senate bill thus sets a floor on the possible definition of substandard earnings.

Senator STEVENSON, who offered the substandard wages amendment in the Senate Banking and Currency Committee, has made clear that he intends that the definition of substandard wages be higher than this floor, rather than being pegged near it. The OMB poverty level is \$3,968 which, of course, would freeze workers at the poverty level and be totally unfair and unrealistic in view of the Bureau of Labor Statistics estimates of a minimum annual budget.

It may be instructive to review the conclusion of the Senate Committee on Labor and Public Welfare that the poverty index is arbitrary and that the real poverty population is considerably higher than estimated—see Senate Report No. 92-331, report on S. 2007, Economic Opportunity Amendments of 1971, July 30, 1971. In that report the committee points out how the Bureau of Labor Statistics arrived at a "lower" family budget for an urban family of four. This is consistent with the expressed intent of the Committee on Banking and Currency that the substandard wage exemption "apply to all persons whose earnings are at or below levels established by the Bureau of Labor Statistics in determining an income necessary to afford adequate food, clothing and shelter and similar necessities."

I include the following excerpt from pages 5 to 7 of Senate Report No. 92-331:

STUDY OF THE POVERTY INDEX

In measuring the extent of the poverty problem in America, the committee gave consideration to the manner in which the so-called poverty index was developed.

Obviously when embarking on an effort to reduce poverty and to evaluate the progress of this effort, it is necessary to set certain benchmarks. However, testimony before the committee has emphasized anew the arbitrary nature of the poverty index, which is presently set at \$3,970 a year for a family of

four. As alarming as it is to know that there are 25.7 million people living in poverty and another 22 million who are "near poor," it is entirely possible that the poverty population is much larger than we consider it to be simply because of the limitations of the poverty index, which the present measurement of poverty.

Miss Millie Orshansky of the Social Security Administration, who has been closely involved with the development of the poverty index, testified before the Subcommittee on March 23. She discussed the limitations of the index as a measurement of poverty.

The poverty index, originally published in 1965 and based on 1963 income, "was an attempt to specify in dollar terms the minimum level of income need for families of different types that would be in keeping with American consumption patterns. She testified that:

"The basis of the poverty index is an assumption, based on a 1960-61 survey conducted by the Labor Department and the Agriculture Department, which 'suggested that the food expenditures of average families of three or more represented about one-third of their money income after taxes.'"

Starting with this assumption, therefore, a cost was calculated for the Agriculture Department "economy food plan," which represented a level of expenditure at which an average housewife had about an even chance of providing a fair diet for her family. The cost of this economy food plan was then multiplied by 3 to determine the poverty level income. Miss Orshansky testified:

"We elected to make—in the absence of conventional standards—as few decisions of judgment in determining the poverty level as possible.

"We estimated the food needs and total income. All the other things were left unspecified. We really did not and do not know how families with that income or below it have to assign their funds—what they can buy and what they must do without."

Miss Orshansky also pointed out that the poverty index was "arrived at late in 1964 in the light of then readily available data, data already in the main 9 years old at that point; the income criteria have not been updated in a real sense, that is, to take account of the greater degree of consumption potential that prosperity has made possible for the majority of American families." (Page 73, Subcommittee hearings.)

The arbitrariness of the poverty index, and the extremely low level of the presently established poverty level income, indicates that the real poverty population may be considerably larger than estimated.

The Bureau of Labor Statistics has developed a report entitled "Three Standards of Living for Urban Families of Four Persons." The Bureau's definition of "urban" includes communities of 2,500 population and larger.

The three budgets are described as "lower, intermediate and higher." The lower income budget was set at \$6,960 a year for a family of four for the spring of 1969 (even though the date was released in December 1970).

The Bureau of Labor Statistics "lower" family budget is made up of the following items:

Food	\$1,905
Housing	1,429
Transportation	505
Clothing and personal care items.....	807
Medical care, hospital insurance.....	562
Other family consumption:	
Recreation, school expenses, tobacco, miscellaneous items.....	345
Contributions, gifts.....	165
Life insurance.....	120
Occupational expenses.....	58
Social security.....	345
Personal taxes.....	719
Total	6,960

An examination of this rather strict budget for a family of four illustrates the limitations of the poverty index. No comparable calculations as to the actual cost of living for a family of four are made in setting the poverty income level at \$3,970.00. The poverty index is based almost entirely on the arbitrary assumption that food represents one-third of family living costs. Furthermore, the determination as to the cost of that food is made arbitrarily and then multiplied, compounding any error.

Representatives of the Bureau of Labor Statistics in testifying before the Subcommittee on March 23 pointed out that the poverty level income makes no allowances for taxes and estimates food costs to be much less than in the Bureau of Labor Statistics "lower" family budget.

At the time this issue was discussed at the Subcommittee hearing, the poverty income level was set at \$3,800, based on the assumption that food costs for a family of four were \$25 per week. In the Bureau of Labor Statistics "lower" family budget, food costs for a family of four are estimated at \$37 per week.

Peter Henle, Chief Economist, Bureau of Labor Statistics, testified:

"According to USDA home economists, menus for food at home based on the low cost food plan (used in the Bureau of Labor Statistics budget) require a considerable amount of home preparation as well as skill in cooking to make varied and appetizing meals even though the cost level of this plan is 25 percent higher than the economy plan (used in the poverty level income calculation)."

If the cost of food is in fact 25 percent greater than allowed for in the present poverty income level, the entire poverty index becomes a very unreliable measurement of the number of persons actually living in poverty.

Since the language of the Senate bill could be subject to misinterpretation by an administrator who does not understand the problem, it is important that the language of the House bill with respect to substandard wages be adopted by the conference committee, and I urge the House conferees to insist upon the House position.

Not just from the point of view of equity but from the point of view of the overall economy, it makes good sense to allow the wages of the working poor to rise to the point where they are not substandard. These workers of necessity spend a very great percentage of their total income. Thus, this money is pumped into the economy, stimulating aggregate demand. This in turn helps the GNP to rise. For, in order to put this economy back on its feet, the GNP must rise substantially, in order to cut unemployment.

Therefore, it is both equitable and economically sound to allow the wages of the poor to rise out of substandard levels during this period of economic stabilization.

Mr. BRASCO. Mr. Chairman, I was on my feet seeking recognition as a member of the committee.

The CHAIRMAN. The gentleman from Indiana is recognized. He had been seeking recognition for an hour and the Chair has been trying to get to him.

The Clerk will report the amendment. The Clerk read as follows:

Amendment offered by Mr. LANDGREBE: Page 19, on line 6 following "1954," insert a comma and the following: "unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for

wage, salary, and price increases published under subsection (b)."

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

Mr. PATMAN. Mr. Chairman, will the gentleman yield for one question?

Mr. LANDGREBE. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I would like to tell the gentleman we discussed this fully in the committee, and there was a unanimous vote in favor of the Hanley amendment. I am not commenting otherwise, but there was a unanimous vote in favor of the Hanley amendment.

Mr. LANDGREBE. Mr. Chairman and members of the committee, I should like to point out that this does not replace the Hanley amendment but is an addition to it. The Hanley amendment exempts all pension and welfare plans that meet the requirements of sections 401, 404, and 403 of the Internal Revenue Code. My amendment simply adds the language "unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for wages, and price increases published under subsection (b)."

In other words, Mr. Chairman, this simply gives some control to the President in bringing about what we are trying to achieve, a slowdown of inflation in our country. I believe this is a very good amendment.

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

Mr. LANDGREBE. I yield to my colleague from Indiana.

Mr. HILLIS. I thank the gentleman for yielding. I should like to associate myself with the gentleman's remarks, and urge approval of the amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

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

Mr. J. WILLIAM STANTON. I believe the gentleman should make clear that originally he had an amendment which would have replaced the Hanley amendment, but this is not the amendment we are speaking of at the present time.

Mr. LANDGREBE. This is an addition to the Hanley amendment, rather than a substitute for it.

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

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

Mr. BROWN of Michigan. The gentleman's amendment is practically the same language as is in the Senate bill, is that not correct?

Mr. LANDGREBE. That is right. The language is taken from the Senate amendment.

Mr. BROWN of Michigan. All the gentleman's amendment does is to say that the only time the pay board may exercise some jurisdiction and authority over these benefits is when the President determines that payment of them would be unreasonably inconsistent with the whole theory of the economic stabilization program, is that correct?

Mr. LANDGREBE. That is exactly right.

Mr. BROWN of Michigan. I believe the gentleman's amendment should be adopted.

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

Mr. LANDGREBE. I yield to my colleague from Indiana.

Mr. MYERS. Does the amendment provide for any exemptions at all? The original language in the amendment offered by the gentleman from New York (Mr. HANLEY) is now in the bill and provides for some exemptions that the President may allow from control. Under the amendment the gentleman is offering to this language, are there any exemptions allowable at all?

Mr. LANDGREBE. Not complete exemptions. These programs that are registered with the IRS would not be under control, unless it was determined by the President that they were unreasonably inconsistent. At that time the Board could move in and take action.

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

Mr. LANDGREBE. Perhaps the gentleman from Michigan can clarify this.

Mr. BROWN of Michigan. As the language presently reads in the bill, with the Hanley amendment, there is presently no opportunity for the President, delegating authority to the Pay Board, to even look at qualified pension plans under section 401 of the Internal Revenue Code. All the gentleman's amendment would do is to say that if the President determines that the impact of the benefits would have an inflationary effect unreasonably inconsistent, then they would be able to control them. It just gives some authority to the President if they are unreasonably inconsistent with the guidelines.

Mr. BAKER. Mr. Chairman, it is important, I feel, in this legislation to make sure small employers have the right to establish employee fringe benefits in order to attract and keep good employees. In this respect, the Senate bill is preferable to what appears in the House bill today on page 19, line 1 through line 6.

The present language of H.R. 11309, as I interpret it, with respect to employee fringe benefits, allows qualified pension and profit-sharing plans to be established, but does not allow other important employee fringe benefits such as group life insurance, hospitalization insurance, and major medical insurance.

To deny the small employer the right to establish these employee benefit plans gives the major employer a distinctly unfair advantage and since such employee benefits in the small businesses involve greater employee participation in the cost, the inflationary effect is virtually nil.

The social and economic loss to the hundreds of thousands of employees of such employers is incalculable.

The Federal Government has long recognized the social importance and the economic benefits of private pension plans, profit-sharing plans, sickness and accident insurance plans, et cetera, and, in fact, has encouraged their adoption by way of tax benefits. In short they have recognized these benefits as a legitimate cost of doing business.

Thousands of employers of fewer than 1,000 people do not have these employee benefit plans now because:

First, they are aware, for the first time, of the need for a systematic retirement plan; or second, they are just now financially able to institute such plans; or third, they have been in business a relatively short period of time.

One side effect of denying him the right to institute such plans now is his vulnerability to the loss of key personnel to the larger company that already has attractive fringe benefits. This means the small employers will be less able to compete and, thus, a major threat to private enterprise in our great country.

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to H.R. 11309, legislation extending the President's authority to issue regulations to control wages, prices, rents, and salaries for an additional year—that is, from April 30, 1972 to April 30, 1973. In my opinion, it is clear that wage and price controls are not the answer to our economic problems and that by imposing these controls, we are treating only the results of inflation rather than the causes.

On December 20, 1945, Ludwig Von Mises, a classical economist, clearly explained the causes and effects of inflation to a war weary nation, struggling to rid itself of wage and price controls, in an article which appeared in the *Commercial and Financial Chronicle*. Although I inserted this article in the November 10 CONGRESSIONAL RECORD, page 40550, I would like to again bring the following excerpts from this article to the attention of my colleagues as I feel Mr. Mises' comments are particularly relevant to our situation today:

Inflation is the process of a great increase in the quantity of money in circulation. Its foremost vehicle in continental Europe is the issue of non-redeemable legal tender notes. In this country (the U.S.) inflation consists mainly in government borrowing from the commercial banks and also in an increase in the quantity of paper money of various types and of token coins. The government finances its deficit spending by inflation.

The problems the world must face today are those of runaway inflation. Such an inflation is always the outcome of a deliberate government policy. The government is on the one hand not prepared to restrict its expenditure. On the other hand it does not want to balance its budget by taxes levied or by loans from the public. It chooses inflation because it considers it as the minor evil. It goes on expanding credit and increasing the quantity of money in circulation because it does not see what the inevitable consequence of such a policy must be.

The superstition that it is possible for the government to eschew the inexorable consequences of inflation by price control is the main peril. For this doctrine diverts the public's attention from the core of the problem. While the authorities are engaged in a useless fight against the attendant phenomena, only few people are attacking the source of the evil, the Treasury's methods of providing for the enormous expenditures.

We cannot expect to control the inflation in our economy until the Federal Government is prepared to reverse its policy of deficit spending. The Decem-

ber 2 daily statement of the U.S. Treasury lists the total public debt as \$418,510,011,559.53, an increase of about \$30 billion over this time last year. For 25 years, since the declaration of the national policy on employment—generally called the Employment Act of 1946—we have followed a course of deficit budgets and increased Federal intervention into every aspect of national activity obsessed with the misguided notion that this was the only route to full employment. It is this policy which has been the prime cause of inflation.

The committee adopted my amendment to H.R. 11309 which states in section 202 that it is the sense of Congress that the President should make every effort to reduce Federal expenditures and taxes by submitting a balanced budget in an effort to stabilize the economy and eliminate the need for the exercise of any controls under this title. Even though my amendment was included in the bill, I am still firmly opposed to the very nature of this legislation which extends the executive branch's wage and price control authority.

In addition, other provisions in the legislation as reported are confusing and do not adhere, in my opinion, to any rational sound fiscal policy. Section 203 (c) (2) and section 216 are apparently contradictory in their approach to granting retroactive pay increases. In any event, however, I am opposed to both provisions because they both discriminate against the worker who is not a member of organized labor and therefore not covered by an employment contract. In addition, the payment of these retroactive wages could virtually bankrupt some corporations and businesses under current price restrictions. If the Price Commission were to allow these companies to raise prices to compensate for retroactive wage increases, this means that the consumer ultimately would carry the burden. Another provision which demonstrates the inherent inequities that result from attempting to provide for a wage-price control program is section 203(a) (3). This provision authorizes the President to stabilize corporate dividends, a source of income to many retired persons, widows, and the disabled, as such a limitation would unjustly effect pensions, trusts, and other sources of investment income.

It is virtually impossible to administer a program of these controls that is fair to all sectors of the economy. This is vividly demonstrated by decisions of the Pay Board, the Price Commission, and particularly the Construction Industry Stabilization Committee. I have selected a sampling of article headlines and lead paragraphs which are clear examples of the inequities which have surfaced during phase II:

ENTER PHASE II—MANY IN UNITED STATES GET PAY RAISES BEYOND 5.5 PERCENT UNDER NEW GUIDELINES—LOOPHOLES AROUND IN RULES, AND CONFUSION STILL REIGNS—PAY PANEL LEADERSHIP GAP? A PRICE POLICY IS DUE SOON

The Phase 2 guidelines for wages and benefits could give thousands of workers raises far greater than the general limit of 5.5% a year. (The Wall Street Journal November 10, 1971.)

AS COULD BE EXPECTED, MANY OILMEN OPPOSE PHASE II CONTROLS ON PRICES BUT NOT WAGES

Phase 2 holds an unexpected promise—of blackouts and brownouts and a possible rationing of fuels. (The Wall Street Journal, November 17, 1971.)

COAL MINERS' 15-PERCENT INCREASE IS APPROVED BY PAY BOARD

Over the strong objection of public members, the Pay Board in a 10-3 vote yesterday said that the first year increase of the three-year soft coal contract signed last week—far in excess of the 5.5 per cent wage standard—should "take effect without modification." (The Washington Post, November 20, 1971.)

PAY BOARD SCOLDED FOR COAL ACTION

Pay Board Chairman George H. Boldt acknowledged yesterday that the government approved pay raises for the nation's coal miners could increase coal prices more than 8 per cent. (The Washington Post, November 21, 1971.)

PHANTOM PHASE II? NUMBER OF EXCEPTIONS TO WAGE-PRICE GUIDES SPURS DOUBTS OF PLAN—REGULATORS SAY SUCH CASES ONLY PUT THINGS IN LINE; NEW BREACH; 7 PERCENT STEEL RISE—"WHO'S EVER GOING TO KNOW?"

The Phase 2 guideline on wage increases is 5.5%, but coal miners have been granted increases of 15%. The Phase 2 guideline on price increases is 2.5%, but two steelmakers yesterday were granted increases of over 7% on tinplate products.

PRICE PANEL CLEARS STEEL BOOSTS TRIPLE ITS TARGET; CHIEF SAYS THIS ISN'T PRECEDENT, STANDARDS INTACT—BETHLEHEM TINPLATE TO CLIMB 7.6 PERCENT, NATIONAL STEEL'S 7.2 PERCENT—CRANE UNIT DETAILS 8 PERCENT RISE

The Price Commission approved steel-price increases ranging to more than three times its stated target, but the panel's chairman insisted the move doesn't set a precedent.

A.T. & T.'S WESTERN ELECTRIC LIFT QUOTES; PRICE COMMISSION LISTS MORE APPLICANTS

Western Electric Co., the manufacturing and supply arm of American Telephone and Telegraph Co., boosted prices 3.9% on telecommunications equipment, an increase that is expected to add about \$130 million a year to Bell System equipment costs.

The company acted in New York at just about the same time as the Price Commission announced in Washington it would allow the increase to go into effect.

GM ASKS 3-PERCENT BOOST IN AUTO PRICES—FORD LIFTS ITS RISE REQUEST TO 4.4 PERCENT—MANY IN INDUSTRY SURPRISED, RELIEVED THAT NO. 1 MAKER SEEKS OVER 2 PERCENT FROM PANEL

General Motors Corp. asked the Price Commission for approval to raise prices on its cars, trucks, and optional equipment about 3%, but the auto giant left the door open for a further increase at yearend to cover additional safety equipment required on all new cars starting January 1. (The Wall Street Journal, November 24, 1971.)

PAY BOARD UPSET—INVITES COMMITTEES HEAD TO HEARINGS

The Pay Board, apparently upset with some contracts approved by the Construction Industry Stabilization Committee, yesterday invited CISC Chairman John Dunlop to appear before the board next week. (The Washington Post, December 3, 1971.)

PANEL ALLOWS HUGE PAY RISE

The Construction Industry Stabilization Committee yesterday said it has approved contracts granting a 56.2 per cent increase

over two years to Delaware plasterers and 39.6 per cent over 24 months to Philadelphia cement masons.

IRS CITES LIMITS ON RENT RISE—TENANTS GET POINTERS ON RENT-RISE LIMITS

The Internal Revenue Service ruled yesterday that tenants may refuse to pay added rent unless landlords can prove the increase charges were being paid on 10% of their similar units prior to the August 15 wage-price freeze. (The Washington Post, December 4, 1971.)

It is evident from these examples that a controlled economy does not work and only the free market disciplines can fairly uphold the concept of consumer choice.

The Congress, however, does have the power to control the battle against inflation. Reducing Federal spending in order that revenues can be brought in balance with expenditures would bring a stop to the inflationary spiral, and is in my opinion, the only answer. For this reason, I am today introducing legislation which presents a fiscally sound alternative to wage-price controls.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment.

The intent of the amendment as expressed by the author was not considered in the House committee. My amendment prevailed overwhelmingly. In essence the expressed intent of the substitute would assign to the executive branch the prerogative of determining what type of pension program should be allowed to employees.

I do not believe that is the intent of the Congress with regard to the Equalization Stabilization Act.

I earnestly ask that this amendment be rejected.

I further add that the language has been contained in the Senate version, and this matter will be disposed of in the House-Senate conference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. LANDGREBE).

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

TELLER VOTE WITH CLERKS

Mr. HANLEY. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. HANLEY. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. LANDGREBE, PATMAN, BROWN of Michigan, and HANLEY.

The Committee divided, and the tellers reported that there were—ayes 170, noes 184, answered "present" 1, not voting 77, as follows:

[Roll No. 457]

[Recorded Teller Vote]

AYES—170

Abbott	Broomfield	Carter
Abernethy	Brotzman	Cederberg
Anderson, Ill.	Brown, Mich.	Chamberlain
Andrews,	Brown, Ohio	Chappell
N. Dak.	Broyhill, N.C.	Clancy
Archer	Broyhill, Va.	Clausen,
Arends	Buchanan	Don H.
Baker	Burke, Fla.	Clawson, Del.
Baring	Burleson, Tex.	Cleveland
Betts	Byrnes, Wis.	Collier
Bray	Byron	Collins, Tex.
Brinkley	Camp	Colmer

Conable	Jonas	Rallsback	Smith, Iowa	Thompson, N.J.	Wolf
Crane	Jones, N.C.	Rarick	Staggers	Ullman	Wyatt
Davis, Ga.	Jones, Tenn.	Rhodes	Stratton	Vanik	Yates
Davis, Wis.	Keating	Robinson, Va.	Stubbsfield	Vigorito	Yatron
Deilenback	Keith	Robison, N.Y.	Stuckey	Waldie	Young, Tex.
Dennis	Kemp	Rousselot	Symington	Whalen	Zablocki
Devine	King	Ruppe	Taylor	Whitten	
Dickinson	Kyl	Ruth			
Downing	Landgrebe	Sandman			
Duncan	Landrum	Saylor			
du Pont	Latta	Schneebell			
Dwyer	Lent	Schwengel			
Edwards, Ala.	McClory	Sebellius			
Erlenborn	McCloskey	Shoup			
Esch	McClure	Shriver			
Findley	McCollister	Sikes			
Fish	McCulloch	Smith, N.Y.			
Fisher	McDonald,	Snyder			
Flowers	Mich.	Stanton,			
Flynt	McEwen	J. William			
Ford, Gerald R.	McKinney	Steele			
Forsythe	McMillan	Stelger, Wis.			
Frelinghuysen	Mahon	Stephens			
Frenzel	Mailliard	Teague, Calif.			
Frey	Mann	Terry			
Goodling	Mathias, Calif.	Thompson, Ga.			
Gross	Mathias, Ga.	Thomson, Wis.			
Grover	Mayne	Thone			
Gubser	Michel	Vander Jagt			
Haley	Miller, Ohio	Waggonner			
Hall	Mills, Md.	Wampler			
Hammer-	Mizell	Ware			
schmidt	Montgomery	White			
Hansen, Idaho	Mosher	Whitehurst			
Harsha	Myers	Widnall			
Harvey	Nelsen	Wiggins			
Hastings	Nichols	Williams			
Heinz	O'Konski	Wilson, Bob			
Henderson	Passman	Winn			
Hillis	Pelly	Wylder			
Hogan	Pettis	Wyllie			
Hosmer	Pirnie	Wyman			
Hull	Poage	Young, Fla.			
Hunt	Poff	Zion			
Hutchinson	Price, Tex.	Zwach			
Jarman	Quie				
Johnson, Pa.	Quillen				

NOES—184

Abourezk	Dow	Madden
Abzug	Drinan	Matsunaga
Adams	Dulski	Mazzoli
Addabbo	Edwards, Calif.	Meeds
Albert	Eshleman	Melcher
Alexander	Fascell	Miller, Calif.
Anderson,	Ford,	Minish
Calif.	William D.	Mitchell
Anderson,	Fountain	Monagan
Tenn.	Fraser	Moorhead
Ashley	Gallagher	Morgan
Aspin	Garmatz	Morse
Aspinall	Gaydos	Moss
Badillo	Gettys	Murphy, Ill.
Barrett	Gialmo	Natcher
Begich	Gonzalez	Nedzi
Bennett	Grasso	Nix
Bergland	Gray	O'Beay
Bevill	Green, Oreg.	O'Hara
Blaggi	Green, Pa.	O'Neill
Blester	Griffin	Patman
Bingham	Hagan	Patten
Boggs	Halpern	Pepper
Boland	Hamilton	Perkins
Bolling	Hanna	Peyser
Brademas	Hansen, Wash.	Pickle
Brasco	Harrington	Pike
Brooks	Hathaway	Podell
Burke, Mass.	Hechler, W. Va.	Preyer, N.C.
Burlison, Mo.	Helstoski	Price, Ill.
Burton	Hicks, Mass.	Fucinski
Byrne, Pa.	Holifield	Purcell
Cabell	Horton	Randall
Caffery	Howard	Rees
Carey, N.Y.	Hungate	Reid, N.Y.
Carney	Ichord	Riegle
Casey, Tex.	Jacobs	Roberts
Chisholm	Johnson, Calif.	Rodino
Clark	Jones, Ala.	Roe
Conte	Karth	Rogers
Cotter	Kastenmeier	Rooney, N.Y.
Coughlin	Kazen	Rooney, Pa.
Culver	Kee	Rosenthal
Curlin	Koch	Roy
Daniel, Va.	Kyros	Roybal
Daniels, N.J.	Leggett	Ryan
Danielson	Lennon	St Germain
Davis, S.C.	Link	Sarbanes
de la Garza	Long, La.	Satterfield
Delaney	Long, Md.	Scheuer
Delums	McCormack	Scott
Denholm	McDade	Seiberling
Dent	McFall	Shipley
Dingell	McKay	Sisk
Donohue	Macdonald,	Skubitz
Dorn	Mass.	Slack

ANSWERED "PRESENT"—1

Schmitz

NOT VOTING—77

Andrews, Ala.	Galifianakis	Reuss
Annunzio	Gibbons	Roncallo
Ashbrook	Goldwater	Rostenkowski
Belcher	Griffiths	Roush
Bell	Gude	Runnels
Blackburn	Hanley	Scherle
Blanton	Hawkins	Smith, Calif.
Blatnik	Hays	Spence
Bow	Hébert	Springer
Celler	Heckler, Mass.	Stanton
Clay	Hicks, Wash.	James V.
Collins, Ill.	Kluczynski	Steed
Conyers	Kuykendall	Steiger, Ariz.
Corman	Lloyd	Stokes
Derwinski	Lujan	Sullivan
Diggs	McKevitt	Talcott
Dowdy	Martin	Teague, Tex.
Eckhardt	Metcalfe	Tiernan
Edmondson	Mikva	Udall
Edwards, La.	Mills, Ark.	Van Deerlin
Ellberg	Mink	Vessey
Evans, Colo.	Minshall	Whalley
Evins, Tenn.	Mollohan	Wilson
Flood	Murphy, N.Y.	Charles H.
Foley	Powell	Wright
Fulton, Tenn.	Pryor, Ark.	
Fuqua	Rangel	

So the amendment was rejected.

AMENDMENT OFFERED BY MR. DOW

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

The Clerk read as follows:

Amendment offered by Mr. Dow: Page 18, line 22, after the word "charges," insert "corporate dividends, and similar transfers," and on line 24, after the word "charges," insert "corporate dividends and similar transfers."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow).

The amendment was rejected.

Mr. BOLAND. Mr. Chairman, many amendments will be offered to this bill today. It is not hard to understand why: President Nixon's economic restraint program, despite its modest success so far, falls short of the millenarian goals envisioned by his architects. And, similarly, this bill extending the President's authority to restrict wages and prices is something less than perfection itself. Disgruntled by the program—even be-deviled by it—many in business and labor alike are reluctant to endow the President again with what they consider to be meddling powers, at best, and at worst, a kind of sweeping economic carte blanche. Phase II, it appears, is particularly disagreeable to the program's critics.

I am willing to concede, Mr. Chairman, that few people are enraptured by the President's program.

But I want to emphasize, just as strongly as I can, that such restraints are necessary for economic recovery.

Prices have been steadily moving upward over the past 6 years. The pace, until quite recently, has been all but dizzying. Ask any housewife. The cost of a loaf of bread, a pound of hamburger, a suit of clothes has reached levels that are much too high. Unemployment, too, has climbed far beyond reasonable economic expectations—as high as 20 percent in regions with the most thread-

bare economies. In my own congressional district fully 10 percent of the work force is now idle.

These problems have taken on all the dimensions of a crisis.

We in the Congress cannot turn our backs on them, hoping they will go away all by themselves.

They will not.

Under the President's program, however distressing it appears, the economy is beginning to shake itself out of its lethargy. Granted, the cost of living is still inching upward month by month—but at a rate significantly less alarming than the one a year ago. Granted further, unemployment still defies whatever steps the economists take. Unemployment levels, however, seem to be stabilizing, and a few heartening signs point to a drop in the levels soon.

The bill now before us, moreover, would put into the economic restraint program the kind of evenhanded justice it now lacks. First, the bill would permit all but the most inflationary retroactive pay increases—a provision that maintains the sanctity of the labor contract, and prevents any windfall business profits stemming from price increases made in anticipation of the wage-price freeze.

Second, the bill allows anyone wronged by the program to bring suit in U.S. district court—and, if rejected there, to appeal to a temporary emergency court of appeals sought in the legislation.

It is plain, Mr. Chairman, that effective controls are our only hope for reviving the economy.

Unlimited wage increases mean nothing, after all, if an American worker's household costs routinely outstrip those increases—or if he loses his job.

I urge passage of the Economic Stabilization Act. Failure to do so would surely and positively result in a spiraling increase in prices and wages. The public, the consumer, the wage earner, labor, and business would all be harmed badly if this proposal is not passed by this Congress.

Mr. DRINAN, Mr. Chairman, I rise in opposition to the amendment by Congressman STEPHENS to the Economic Stabilization Act of 1971. The Stephens amendment would, in effect, preclude equitable relief to teachers and other employees who have lost wages to which they were entitled pursuant to wage contracts entered into prior to August 15, 1971. This amendment would permit, but not require, the President to allow employers to make retroactive wage payments.

There has been an enormous national debate on the issue of retroactive pay. I am at a loss to understand the arguments made by those who oppose retroactivity. A contract is a solemn and binding agreement. When we suspend the operation of a duly executed contract we are trifling with the legitimate plans and expectations of parties to that contract.

Thousands and even millions of citizens based their economic plans on wages to which they were entitled pursuant to contracts executed before August 15. If we now abrogate those contracts by legislative fiat, we will be saying to those individuals that they have

no right to rely on legally binding documents to which they are parties.

Under the Stephens amendment the only workers allowed retroactive payment would be those in plants or institutions where prices were raised in anticipation of the wage increase. In those plants or institutions which were able to absorb the wage increase without raising prices the increase would not be allowed. By passing this amendment we would be endorsing a plan directly contrary to a cornerstone of the current economic stabilization efforts.

It should be particularly noted that if this amendment is enacted it would completely bind the Pay Board. Even if the Pay Board later decided it made a mistake in its earlier denials of pay increases, its hands would be tied by the restrictions of this statute.

Only 2 days ago, Secretary of Labor Hodgson stated, and I quote from the New York Times of December 9:

The retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision on retroactivity contained in the (unamended) bill before the House of Representatives is adopted.

In view of the foregoing statement, in view of other statements by the Pay Board and other administration sources, in view of the critical need to allow individuals to make expenditures and economic plans on a predictive basis, and in view of the manifest equities involved, I urge my colleagues to oppose this amendment and to support the committee bill and other proposals to permit retroactively the payment of wages lost as a result of a plan announced in Washington on August 15, 1971.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in opposition to the Stephens amendment. This amendment would severely undermine the intent and thrust of action taken in committee which guarantees that teachers would receive the raises for which they contracted and upon which State laws based their salary. This provision, an amendment in committee by Mr. MINISH, sets right a major inequity initially perpetrated against teachers by the Cost of Living Council.

One of the major problems of wage and price controls is the inequity which comes about as a result of across-the-board, generalized regulations which fail to take into account unique differences in various wage structures. When the Cost of Living Council first promulgated its wage regulations it had no one on its staff familiar with the unique structure of teacher salaries. As a result teacher salaries were lumped together under other regulations in spite of the unique structure by which teachers are paid. The increases which teachers were denied by the Cost of Living Council regulations were in fact, not raises. They were the normal structural, automatic increments which formed the basis for teachers' salaries throughout their entire career. The additional increment was part of a single salary schedule, enforced by legislation, and contracted for as soon as the first contract with the school system was signed.

In some cases teachers received their

increments, not because they had contracted for them prior to August 15, but because some teachers in the same school system had worked during the summer school session, the "golden sheep rule." In systems which had no summer sessions, no teachers were permitted their increments nor, for that matter, the increases of those increments for which they had also bargained. As a result many teachers were denied raises in spite of the fact that neighboring jurisdictions had granted them. In practically all cases, denial of the raises would result in unjust enrichment by school boards.

The sanctity of the contract in American law goes back many hundreds of years. The committee proposal would repair the error made by the Cost of Living Council and restore the sanctity of the teachers' contracts. As it stands now, the quid pro quo bargained for by teachers has been unilaterally abrogated by the Cost of Living Council, an uninvited third party to the contract which interjected itself after contracts had been signed and, in many cases, after performance of the contract had actually begun.

I strongly urge my colleagues to reject the Stephens amendment and let the Minish proposal in the committee bill stand upon this issue.

Mr. SCHEUER, Mr. Chairman, I rise in support of the amendment to require the forthcoming rent guidelines to be applied in areas which have local rent control as well as in those which do not.

The Price Commission has decided to exempt from its rent guidelines those areas, such as New York City, in which there are State or local rent control laws.

Mr. Chairman, if this decision is permitted to stand, most of the tenants in controlled apartments in New York City will face a 75 percent rent increase next month.

An increase of this magnitude is grossly unfair at a time when wages are controlled by the Pay Board and will be permitted to rise only 5.5 percent per year.

To permit the Rent Board's decision to stand would unfairly penalize hundreds of thousands of low- and middle-income people and make life exceptionally difficult for those, such as the handicapped and the elderly, who live on fixed incomes.

Mr. BADILLO, Mr. Chairman, I am voting against the Economic Stabilization Amendments of 1971 not because I am opposed to the type of controls this legislation contemplates, nor because I am opposed to everything in this bill. I am voting against the bill because it has two major flaws: a blank check 16-month extension of the most sweeping and unprecedented authority ever delegated to the President by Congress, and a provision which precludes the public and the press from having access to the data submitted by corporations in support of their requests for price increases. These flaws make the bill unworthy of support, in my judgment.

The bill does have several good features and I want the Record to show that I do appreciate the following provisions:

First, I support the bill's provision upholding wage contracts entered into prior

to August 15, 1971, as long as they were not unreasonably inconsistent with the rate at which wages or salaries have increased in the economy generally. These contracts were entered into in good faith long before any one had knowledge of an impending wage-price freeze and particularly in the cases of teachers. Purchases and employment decisions were made on the basis of those agreements. I agree with the committee that Congress would be unwise to allow the destruction of private contracts by administrative fiat, except perhaps in the most dire of circumstances.

I also support the committee provision enabling consumers and small businessmen to seek civil damages if there have been willful price violations.

Two additional provisions, of particular concern to the people of New York City, also have my strong endorsement. These are the committee provisions requiring mass transportation systems—such as the New York City Transit System—to obtain approval of fare increases from the Price Commission before they may go into effect, and the Brasco amendment accepted in the Committee of the Whole, bringing apartments under rent control in New York under jurisdiction of the Price Commission.

In addition, I support the committee provision requiring the President to establish local protest boards as a means of giving full and fair hearing to all those who feel they are adversely affected by any of the decisions made under the phase II program. It remains my very strong feeling, however, that the bill is woefully inadequate in providing the kind of mechanisms and protections that would result in full public participation in and support for the phase II operation.

Perhaps the most glaring and fatal defect in this bill, Mr. Chairman, is the provision in section 205 which prevents the Price Commission from making public the data on which corporations seek to justify their price increases. In fact, this provision incorporates section 1905 of the Criminal Code and attaches criminal sanctions to any Federal official or agency which discloses this data.

In my judgment and as I made clear in offering my amendment to cure this flaw, public confidence and support for the phase II program just will not exist as long as price decisions are made in secret. My remarks on my amendment set forth my views on this issue fully.

Likewise, the blank check 16-month extension of the President's authority to impose sweeping economic controls is another fatal flaw in the bill. It is yet another deplorable abdication of congressional responsibility to set national policy and it is fraught with peril for this Nation. It may be politically wise, in the short term, to let the President shoulder the full burden of our economic problems, but it is most definitely not in the national interest for the Congress to so cavalierly ignore its own obligations.

I could support this legislation if these flaws were to be corrected in conference. I have no confidence, however, that this will happen and I am prepared to vote against the conference report as well.

Mr. KOCH. Mr. Chairman, H.R. 11309

requires that all mass transit systems receive approval of the Price Commission before implementing any fare increases. Section 214 states:

No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities shall increase any fare without first obtaining approval under this section from the President or his delegate.

It is important that the Price Commission examine and act on proposed mass transit fare increases. Transit rates are a basic cost of employment to millions of Americans and ultimately these fares affect wages and the price of goods. Escalating transit fares have a definite cost-push on the economy. And so, if the wage and price stabilization program is to be successful, it is essential that the Price Commission have control over increases in this primary factor in individual and business costs.

Some transit systems like the Metropolitan Transportation Authority in New York City, are not regulated by an independent city, State or Federal body. Section 214 will be particularly important in the instance of these systems. Requiring prior approval by the Price Commission for fare increases would insure that the public interest in any fare increase receives careful consideration.

The most important aspect of section 214 is that it establishes in the law that any mass transit fare increases must receive the approval of the Price Commission. It assures the riding public that transit fares will never be placed in an unregulated category by the Cost of Living Council.

Presently, mass transit is treated as a public utility by the Price Commission. Under revised regulations that are expected to be published in the Federal Register in the next several days, all public utilities having gross receipts of \$50 million or more must notify the Price Commission for proposed fare increases and receive a certification from its regulatory body that the rate increases are consistent with the Price Commission's stabilization criteria. An unregulated public utility must provide its own certification; that is, it must provide evidence that the proposed rate increase is consistent with Price Commission regulations. In the instance of all public utilities with gross receipts of \$100 million, prenotification and certification are required and the Price Commission has 10 days to review the proposed increase before it can go into effect.

Section 214 of H.R. 11309 requires notification and approval by the Price Commission of fare increases proposed by all mass transit systems, no matter what their gross receipts are.

I am so pleased that in the committee's consideration of this legislation there were several versions of the bill and in each my amendment was included.

Mr. RANDALL. Mr. Chairman, I support H.R. 11309, not as some have put it, reluctantly, but admittedly without being completely satisfied with some of the content, and along with a measure of dis-

appointment that there are some things which should have been done that were omitted.

By this measure, we have granted the President an awesome power. Such has been done only twice before during times of national emergency. It is for this reason that it became most necessary that such far ranging authority be accompanied by some basic guidelines to make certain the power is administered equitably.

When I observed that I was disappointed because of some things which were omitted, I had reference to interest rate controls. I mean by that that it is important for all elements of the economy be treated equally and no group be allowed special treatment. Today, we find wages frozen and yet interest charges go on to become a staggering proportion of the monthly budget. It is true there is provision for what is called the stabilization of interest rates and I suppose what the committee proposes is the best we could get approved by the House. I was hopeful there would be some way to control the rise in the rate of interest because it is a key factor in the cost of living of every single consumer and for that matter every businessman.

It is estimated the total annual interest cost is \$150 billion. It is of some comfort to note there is a mandatory provision that the President must issue regulations or orders for stabilization for finance charges and interest rates unless he makes a determination of finding accompanied by concise and complete statements of reasons that interest rates on all type of loans are satisfactory and this would mean that all existing rates are thus to be approved by the administration.

The second concern which I am sure I share with many of our colleagues is what this Economic Stabilization Act Amendments of 1971 do to certain contracts entered into prior to August 15. It should go without saying that in a free society private contracts freely and fairly entered into should be inviolate and should not be impaired or destroyed by the fiat of any Government agency. Many contracts and agreements were entered into by thousands of nonunion employees as well as some union members at a time when no one knew about an impending wage-price freeze. Certainly, these contracts were entered into in good faith. These same wage earners proceeded to make purchases or other decisions and commitments based on these contracts. The most classic example is our teachers, most of whom signed contracts in March and April of this year. They certainly had a right to anticipate these higher earnings. Most of them then enrolled in summer school and incurred the additional expense of improving their teaching abilities this past summer. For others, it may have been a decision to buy a home or make a downpayment. All these decisions were made in the belief they had a legal and binding contract with their employer.

Mr. Chairman, that brings us down to the very troublesome difference between whether the Pay Board should approve salary increases contracted prior to August 15 and which would have been

scheduled to be paid during phase I. I supported the proposition that such increases should be granted unless, according to the wording of H.R. 11309, they would be unreasonably inconsistent to rates of increase in wages in the economy generally. In other words, those contracts which had been approved prior to August 15 would be effective in phase I and phase II.

I opposed the Stephens amendment because it simply provided such increases provided by law of contracts entered into prior to August 15, 1971, would be effective at the discretion of the President. This criteria means the burden would be placed on such groups as our teachers and many others to have to prove once again their contracts were, in fact, entered into in good faith and, moreover, would have to prove the contract was legally and fairly entered into. For my part, I do not want to leave this cloud of administrative uncertainty hanging over the heads of teachers and others and particularly those who had definite wage and salary agreements entered into prior to August 15.

Mr. Chairman, our mail contained communications from the media for and against being included under wage and price controls. The exemption passed by the other body sponsored by the gentleman from California, of course, was a complete exemption. Some of our media wanted to exempt all news media from phase II of price and wage controls. Others said they supported President Nixon's phase I and support phase II and thought it would be unfair for others to be included and the press exempted. Of course, this exemption in the other body had to do with the first amendment or the freedom of the press. Our side of the Congress may not have hit this issue head-on, but by the adoption of the Rees amendment we did provide that in implementing H.R. 11309 the President should and must take in consideration the first amendment.

It is encouraging to note rents have been included and there were also provisions concerning dividends and profits. Mr. Chairman, I supported the Hanley amendment which exempts pension funds of retirement plans which are now under Internal Revenue and supervised by the Department of Labor. I concur in the belief that, as to these pension funds, once again we are involving ourselves in the area which might or could impair the sanctity of contracts. I do not believe these pension or retirement plans should be placed under any stabilization board.

As chairman of the House Subcommittee on the Aging, we plan to call a series of witnesses to testify concerning those pension plans which have not served the purpose of their beneficiaries. We all know the classic case of loss of all pension funds by the journeymen barbers all across America. We certainly should not interfere with the operation of any of these funds or plans to the detriment of the elderly beneficiaries. I was disappointed the enforcement was left to the IRS. Who can dare question the taxman, no matter how arbitrarily he may act. They have enough to do to collect taxes.

Mr. Chairman, there are several things about this bill which are unpalatable. But I for one, refuse to be cast in a role of in any way, contributing to any greater uncertainty than presently exists in the state of our economy. It has been argued the Congress should not act at this time, but wait until nearer the time of expiration of the present authority—April 30, 1972. I reject that argument outright as productive of a situation which would indicate the Congress had doubts whether the authority might be extended. This would leave planning and all measures of preparations for the future for both, as to individuals and business organizations hanging in the balance. It is important we act well in advance of this expiration, if we are to eliminate uncertainty on the part of individuals and nervousness on the part of business and industry.

So far as I can determine, we cheerfully granted to the President the previous authority for wage and price controls. He ordered phase I and is now involved in phase II. For my part, I think it is important that Congress give him a chance to make phase II successful. The condition of our economy is of such transcending importance, that we must cooperate with the President in this matter. For those who say the President will not use the authority we delegated either fairly, equitably, equally, or consistently, let me respond to these by saying if that does happen, there will be plenty of time for the Congress to act. For now, we must eliminate all uncertainty and show we are extending this stabilization program, adding only a minimum of guidelines in the interest of fairness and justice. We must get on with the key job of controlling inflation and stabilizing the economy.

Mr. RARICK. Mr. Chairman, as I regard H.R. 11309, it is an effort to make an unworkable economic blueprint workable with some wanting to close loopholes and others to create new nooses. The reason we are here today debating phase II is to figure out why phase I failed.

Since neither the people nor the free enterprise system created inflation and the morass in which the bureaucrats now find themselves—just everyday common-sense and simple logic should tell us that we are not going to cure the national ills without removing the cause.

The problem that we are here trying to solve by police state discipline over our people and a free economy was caused by too much interference and deficit spending. Yet the real troublemaker—Federal spending above our income without increased productivity—is neither brought under control nor given serious consideration.

A Socialist-type controlled economy has never worked in any country. How can anyone seriously believe that it will work in the United States, even assuming that many patriotic and well-meaning citizens will try to readjust their lives to comply with the new order?

This same body that earlier this week passed a \$3 billion foreign giveaway of American tax dollars to supposedly free foreign citizens just does not make sense when we now want to place police state

restrictions and computer-type automation over our own people and machines of production. One thing is for certain, the Stabilization Act does not apply to foreign aid, tax-free foundations, interest on the national debt, income tax increases, or additional deficit spending by this body.

The emotional appeals and the hysteria in behalf of individual freedom from repression and escaping the chains of bondage heard during debate in this body on many legislative measures are not heard when it comes to shackling economic freedoms. Do not the chains on economic freedom also manacle individual liberty?

A strong free people make a strong country. A strong political leadership only results in a strong political control over the people.

Socialism is a proven failure. Its rejection requires only that the people awaken to the realization of how much freedom they have lost by the use of their own tax dollars, fancy promises, and unworkable programs.

I regard this legislation as not in the best interests of a free people, a free country, and a free economy. It will not work unless our people succumb to a national Socialist state. I shall cast my people's vote "no."

Mr. GONZALEZ. Mr. Chairman, by our action today we have enacted what you might call an economic Gulf of Tonkin resolution. We have acceded to the demands of an administration that has made no sound, no convincing case for the draconian powers authorized in this bill—powers no President has asked for or received in peace or war.

We have no national emergency—no world war, no uncontrollable depression. We have only a vague specter, or the rumor of one, called inflation. And we are, in this economic policy, placing the whole burden of that inflation on the workingman. But the truth is, and the statistical evidence bears this out—is that the wages of industrial workers in this country are pretty much in line with their productivity. This new economic policy does not recognize this; and to compound the error it does little or nothing to touch the real sources of inflation, which are the service segments of our economy. The fastest rising price of all is for medical care, and we are not doing anything about that here. No, we are only telling a worker in New York, who might be making \$500 or \$600 a month—that he cannot get increases of more than 5 percent without disrupting the economy. Yet this same policy, which we are today endorsing, would allow rent increases to those same workers of 8 or 10 percent.

We are not only endorsing a policy that is manifestly unjust, but we are extending the hands of Congress and inviting the administration to place the manacles on them. It would have been wise for us, in the light of the dismal and utter failure of the last administration economic policy, to retain the right to effectively review progress next spring, and then revise our policies as needed. But no, we are extending this law until 1973, so there can be no effective review until that time.

Have we not learned from the last game plan, how wrong economic policy can be, and how stubbornly the administration can cling to it? No, not if we gage our learning index by the action we are taking today.

This policy may well be grounded on a complete misunderstanding of the nature of our economic system and its ills. It may in fact freeze into place the problems, the injustices, the inequities that we know exist today. Rather than bringing about prosperity, this policy may well simply create a kind of gray mediocrity. And it will guarantee that present rates of unemployment will be frozen for a year or more at about their present 6 percent. For minority groups, for teenagers, this number is more like 12 or 18, and in places it is higher still. Yet this policy would continue that situation deliberately. I do not want to be a party to such an action.

Since we are binding our own hands here today, I would ask the House, what will we do if this policy works out to be as bad as the last one was? Where will be our independence to act, our ability to forge a new policy? It will be gone.

Maybe the majority here today is correct. The chances of that being the case are something less than half, based on recent experience. What the administration has done to earn the vote of confidence represented by this bill, I do not know.

Mr. GROSS. Mr. Chairman, this is a sad day in the annals of a once proud and free nation.

This legislation points up eloquently and tragically the results of too many years of improvident, irresponsible acts of Congress and the equally improvident, irresponsible acts of a succession of administrations in the executive branch of Government.

No single period in the history of this Nation has witnessed more irresponsibility in the legislative and executive branches of Government than in the past decade.

Through these and other years, but especially in the past decade, this Government has spent untold billions of borrowed dollars. It has kited checks to the point that it now faces the crisis of insolvency.

And so we have before us today a bill that is euphemistically entitled the "Economic Stabilization Act." In the opinion of this Member of the House, it is fraudulent and for the reason that in conjunction with the controls that have been invoked and will be continued under this act, there is not the slightest indication that there will be meaningful reductions in expenditures.

President Nixon can ask for, and Congress can enact economic and monetary control measures from now until doomsday, but unless there are drastic reductions in expenditures, inflation and the slide to financial collapse will continue.

Last year the Federal deficit was more than \$25 billion. It is freely predicted that at the end of the current fiscal year it will be \$30 to \$35 billion. No stabilization act can save the American people from this kind of folly and irresponsibility.

Mr. Chairman, never did I think I would live to see the day when this proud

Nation would tolerate controls and regimentation in time of peace. It bespeaks moral decadence—a tragic loss of integrity and courage.

I cannot vote for this legislation for I am convinced that it is an expedient which will only further lull the people of America into a false sense of security.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11309) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes, pursuant to House Resolution 730, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. ROUSSELOT

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

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. I definitely am, Mr. Speaker.

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

The Clerk read as follows:

Mr. ROUSSELOT moves to recommit the bill H.R. 11309 to the Committee on Banking and Currency.

Mr. PATMAN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

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

The motion to recommit was rejected.

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

Mr. WIDNALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 326, nays 33, not voting 72, as follows:

[Roll No. 458]

YEAS—326

Abbutt
Abernethy
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson,
Anderson,
Anderson, Ill.

Anderson,
Tenn.
Andrews,
N. Dak.
Arends
Ashley
Aspin
Aspinall
Baker
Baring

Barrett
Begich
Bennett
Bergland
Betts
Bevill
Blaggi
Blester
Bingham
Boggs

Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen,
Don H.
Clawson, Del.
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Cotter
Coughlin
Culver
Gurlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dent
Devine
Dickinson
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Dwyer
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Gallagher
Garmatz
Gaydos
Gettys
Giarno
Gibbons
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Grover
Gubser
Hagan
Haley
Halpern
Hamilton

Hammer-
schmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hillis
Hogan
Hollifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
King
Koch
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Link
Long, La.
McClary
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald,
Mich.
McEwen
McFall
McKay
McKinney
McMillan
Macdonald,
Mass.
Madden
Mahon
Malillard
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Miller, Calif.
Miller, Ohio
Mills, Md.
Minish
Mitchell
Mizell
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Obey
O'Konski
O'Neill
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quile
Quillen
Rallsback
Randall
Rees
Reid, N.Y.
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scheuer
Schneebell
Schwengel
Scott
Sebellius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton,
J. William
Steele
Stephens
Stratton
Stubblefield
Stuckey
Symington
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolf
Wyatt
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwack

NAYS—33

Burleson, Tex.
Burton
Chisholm
Crane

Gonzalez de la Garza	Hanna Hawkins	O'Hara Rarick
Dellums	Hechler, W. Va.	Rousselot
Dennis	Hungate	Schmitz
Dingell	Landgrebe	Seiberling
Dow	Long, Md.	Steiger, Wis.
Ford,	Michel	Waldie
William D.	Moss	Wydler
Gross	Nedzi	
Hall	Nix	

NOT VOTING—72

Andrews, Ala.	Fulton, Tenn.	Reuss
Annunzio	Fuqua	Roncallo
Ashbrook	Galifianakis	Rostenkowski
Belcher	Goldwater	Roush
Bell	Griffiths	Runnels
Blackburn	Gude	Scherle
Blanton	Hays	Smith, Calif.
Blatnik	Hébert	Spence
Bow	Hicks, Wash.	Springer
Broyhill, N.C.	Jones, N.C.	Stanton,
Celler	Kluczynski	James V.
Clay	Kuykendall	Steed
Collins, Ill.	Lloyd	Steiger, Ariz.
Conyers	Lujan	Stokes
Corman	McKevitt	Sullivan
Derwinski	Martin	Talcott
Diggs	Metcalfe	Tiernan
Dowdy	Mikva	Udall
Eckhardt	Mills, Ark.	Van Deerlin
Edmondson	Mink	Veysey
Edwards, La.	Minshall	Whalley
Eilberg	Mollohan	Wilson,
Evans, Colo.	Powell	Charles H.
Evins, Tenn.	Pryor, Ark.	Wright
Foley	Rangel	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Hicks of Wash-
ington against.

Mr. Reuss for, with Mr. Eckhardt against.

Mr. Roncallo for, with Mr. Conyers against.

Mr. James V. Stanton for, with Mr. Clay
against.

Mr. Hébert for, with Mr. Dowdy against.

Mr. Kuykendall for, with Mr. Goldwater
against.

Mr. Rostenkowski for, with Mr. Diggs
against.

Until further notice:

Mr. Blanton with Mr. Minshall.

Mr. Hays with Mr. Bow.

Mr. Kluczynski with Mr. Martin.

Mr. Mikva with Mr. Metcalfe.

Mr. Celler with Mr. Gude.

Mr. Blatnik with Mr. Lloyd.

Mrs. Sullivan with Mr. Lujan.

Mr. Jones of North Carolina with Mr. Der-
winski.

Mr. Charles H. Wilson with Mr. Bell.

Mr. Tiernan with Mr. McKevitt.

Mr. Mollohan with Mr. Broyhill of North
Carolina.

Mr. Foley with Mr. Powell.

Mr. Fulton of Tennessee with Mr. Belcher.

Mr. Fuqua with Mr. Ashbrook.

Mr. Corman with Mr. Collins of Illinois.

Mr. Edmondson with Mr. Scherle.

Mrs. Griffiths with Mr. Smith of California.

Mr. Andrews of Alabama with Mr. Spence.

Mr. Evins of Tennessee with Mr. Springer.

Mrs. Mink with Mr. Talcott.

Mr. Evans of Colorado with Mr. Steiger of
Arizona.

Mr. Galifianakis with Mr. Veysey.

Mr. Eilberg with Mr. Whalley.

Mr. Rangel with Mr. Udall.

Mr. Stokes with Mr. Van Deerlin.

Mr. Steed with Mr. Wright.

Mr. Pryor of Arkansas with Mr. Runnels.

Mr. Mills of Arkansas with Mr. Roush.

The result of the vote was announced
as above recorded.

A motion to reconsider was laid on the
table.

Mr. PATMAN. Mr. Speaker, pursuant
to the provisions of House Resolution
730, I call up for immediate considera-
tion the Senate bill (S. 2891) to extend

and amend the Economic Stabilization
Act of 1970.

The Clerk read the title of the Senate
bill.

MOTION OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Speaker, I offer a
motion.

The Clerk read as follows:

Mr. PATMAN moves to strike out all after
the enacting clause of S. 2891 and insert in
lieu thereof the provisions contained in H.R.
11309, as passed, as follows:

That this Act may be cited as the "Eco-
nomic Stabilization Act Amendments of
1971".

ECONOMIC STABILIZATION ACT OF 1970

SEC. 2. Title II of the Act entitled "An Act
to amend the Defense Production Act of
1950, and for other purposes", approved Au-
gust 15, 1970 (Public Law 91-379), is amend-
ed to read as follows:

"TITLE II—COST OF LIVING STABILIZATION

"§ 201. Short title

"This title may be cited as the 'Economic
Stabilization Act of 1970'.

"§ 202. Findings

"It is hereby determined that in order to
stabilize the economy, reduce inflation, mini-
mize unemployment, improve our competi-
tive position in world trade, and protect the
purchasing power of the dollar, it is neces-
sary to stabilize Federal taxes and expendi-
tures, prices, rents, wages, salaries, dividends,
and interest. The adjustments necessary to
carry out this program require prompt judg-
ments and actions by the executive branch
of the Federal Government. Further, it is the
sense of the Congress, that consistent with
the purposes of this title, the President
should make every effort to reduce Federal
expenditures and taxes by submitting a bal-
anced budget in an effort to stabilize the
economy and eliminate the need for the ex-
ercise of any controls under this title. The
President is in a position to promptly and
effectively implement the program author-
ized by this title.

§ 203. Presidential authority

"(a) The President is authorized to issue
such orders and regulations as he may deem
appropriate, accompanied by a statement of
reasons for such orders and regulations, to—

"(1) stabilize prices, rents, wages, and
salaries at levels not less than those prevail-
ing on May 25, 1970, or at such other levels
as the President may deem appropriate to
achieve orderly economic growth and other-
wise carry out the purposes of this title;

"(2) stabilize Federal expenditures; and

"(3) stabilize interest rates and finance
charges in connection with the extension of
credit, and corporate dividends and similar
transfers, at levels consonant with orderly
economic growth.

Such orders and regulations may provide for
the making of such adjustments as may be
necessary to prevent gross inequities.

"(b) In carrying out the authority vested
in him by subsection (a), the President shall
issue standards to serve as a guide for de-
termining levels of wages, salaries, prices,
rents, interest rates and finance charges in
connection with the extension of credit, cor-
porate dividends, and similar transfers
which are consistent with the purposes of
this title and orderly economic growth. Such
standards shall—

"(1) be generally fair and equitable;

"(2) provide for the making of such gen-
eral exceptions and variations as are neces-
sary to foster orderly economic growth and
to prevent gross inequities, hardships, seri-
ous market disruptions, domestic shortages
of raw materials, localized shortages of la-
bor, and windfall profits;

"(3) take into account changes in pro-
ductivity and the cost of living, as well as

such other factors consistent with the pur-
poses of this title as are appropriate;

"(4) provide for the requiring of appro-
priate reductions in prices and rents when-
ever warranted after consideration of lower
costs, labor shortages, and other pertinent
factors; and

"(5) call for generally comparable sacri-
fices by business and labor as well as other
segments of the economy.

"(c) (1) The authority conferred on the
President by this section shall not be exer-
cised to limit the level of any wage or sal-
ary (including any insurance or other fringe
benefit offered in connection with an em-
ployment contract) to a level below that
which has been agreed to in a contract which
(A) related to such wage or salary, (B) has
been executed prior to August 15, 1971, and
(C) is scheduled to take effect after Novem-
ber 13, 1971, unless the President deter-
mines that the increase provided in such
contract is unreasonably inconsistent with
the standards for wage and salary increases
published under subsection (b).

"(2) Beginning on the date on which this
subsection takes effect, the President shall
promptly take such action as may be neces-
sary to require the payment of any wage or
salary increases (including any insurance or
other fringe benefits offered in connection
with employment) which have been, or in
the absence of this subsection would be,
withheld under the authority of this title if
the President determines that—

(A) such increases were provided for by
law or contract prior to August 15, 1971; and

(B) prices have been advanced, produc-
tivity increased, taxes have been raised, ap-
propriations have been made, or funds have
otherwise been raised or provided for in order
to cover such increases.

"(d) Notwithstanding any other provision
of this title, this title shall be implemented
in such a manner that wage increases to any
individual whose earnings are substandard
or who is amongst the working poor shall not
be limited in any manner, until such time as
his earnings are no longer substandard or he
is no longer a member of the working poor.

"(c) Whenever the authority of this title
is implemented with respect to significant
segments of the economy, the President shall
require the issuance of regulations or orders
providing for the stabilization of interest
rates and finance charges, unless he issues
a determination, accompanied by a state-
ment of reasons, that such regulations or or-
ders are not necessary to maintain such rates
and charges at levels consonant with orderly
economic growth.

"(f) The authority exercised under this
title shall not be exercised with respect to a
plan which meets the requirements of section
401(a) or 401(a)(2) of the Internal Revenue
Code of 1954 or with respect to an annuity
contract described in section 403(b) of the
Internal Revenue Code of 1954.

"(g) In the exercise of the authority con-
ferred by this title, the President shall take
no action which directly or indirectly im-
pairs or detracts from the protections guaran-
teed by the First Amendment of the Consti-
tution of the United States.

"(h) No State or portion thereof shall be
exempted from any application of this title
with respect to rents by virtue of the fact
that it regulates rents by State or local law,
regulation or policy.

"§ 204. Delegation

"The President may delegate the perform-
ance of any function under this title to such
officers, departments, and agencies of the
United States as he deems appropriate, or
to boards, commissions, and similar entities
composed in whole or in part of members
appointed by the President to represent dif-
ferent sectors of the economy and the gen-
eral public. The President, in carrying out
his authority under this title, shall establish
a board for the purpose of studying, eval-

uating, and reporting quarterly to the Congress on the relationship between excess profits, the stabilization of the economy, and the creation of new jobs. When such boards, commissions, and similar entities are composed in part of members who serve no less than a full-time basis, legal authority shall be placed in their chairmen, who shall be employees of the United States and who shall act only in accordance with the majority vote of members. Nothing in section 203, 205, 207, 208, or 209 of title 18, United States Code, shall be deemed to apply to any member of such board, commission, or similar entity who serves on less than a full-time basis because of membership on such board, commission, or entity. Members who serve on less than a full-time basis shall be compensated from the date of their appointment at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the board, commission, or similar entity. Funds of departments and agencies of the United States shall be available for the performance of any function so delegated and, at the direction of the President, any other functions performed under authority of this title.

"§ 205. Confidentiality of information

"All information reported to or otherwise obtained by an agency exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 105 of title 18, United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers, agencies, boards, commissions, or similar entities empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title; and except that disclosure may be made to Federal executive departments, agencies, and other establishments of the Federal Government under regulations promulgated by the President or his delegate for use in any matters officially before them.

"§ 206. Subpoena power

"The head of the agency or his duly authorized agent shall have authority, for any purposes related to this title, to sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as is paid to witnesses in the courts of the United States. In case of refusal to obey a subpoena served upon any person, firm, association, or corporation under the provisions of this section, the head of the agency may request the Attorney General to seek the aid of the district court of the United States for any district in which such person, firm, association, or corporation is found to compel such person, firm, association, or corporation after notice to appear and give testimony or to appear and produce documents before the agency.

"§ 207. Administrative procedure

"(a) The functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act (sections 551 et seq., title 5, United States Code), except as to the requirements of section 552 of title 5, United States Code.

"(b) (1) Notwithstanding the provisions of subsection (a), with respect to any board, commission, or other entity carrying out functions under this title, general notice of proposed rulemaking shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

"(A) a statement of the time, place, and nature of public rulemaking proceedings;

"(B) reference to the legal authority under which the rule is proposed; and

"(C) either the terms of substance of the proposed rule or a description of the subjects and issues involved.

This subsection does not apply—

"(1) to interpretative rules, general statements of policy, or rules of organization, procedure, or practice; or

"(2) when for good cause it is found (and there is incorporated the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

After notice required by this subsection, interested persons shall be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, there shall be incorporated in the rules adopted a concise general statement of their basis and purpose. The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

"(a) a substantive rule which grants or recognizes an exemption or relieves a restriction;

"(b) interpretative rules and statements of policy; or

"(c) as otherwise provided for good cause found and published with the rule.

Interested persons shall be given the right to petition for the issuance, amendment, or repeal of a rule.

"(2) Notwithstanding the provisions of subsection (a), with respect to any board, commission, or other entity carrying out functions under this title, prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any proceeding under this title. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

"§ 208. Sanctions; criminal fine and civil penalty

"(a) Whoever willfully violates any order or regulation under this title shall be fined not more than \$5,000 for each violation.

"(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than \$2,500 for each violation.

"§ 209. Injunctions and other relief

"Whenever it appears to any officer, department, agency, board, commission, or similar entity authorized by the President to exercise authority under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any such order or regulation, it may request the Attorney General to bring an action, in the appropriate district court of the United States, to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any order or regulation issued under this title. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any order or regulation issued under this title.

"§ 210. Suits for damages or other relief

"(a) Any person suffering legal wrong because of any act or practice arising out of this title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, and/or damages.

"(b) In any action brought under subsection (a) against any person renting property or selling goods or services who is found to have overcharged the plaintiff, the court

may, in its discretion, award the plaintiff reasonable attorney's fees and costs, plus whichever of the following sums is greater:

"(1) an amount not more than three times the amount of the transaction upon which the action is based, or

"(2) not less than \$100 or more than \$1,000;

except that in any case where the defendant establishes that the overcharge was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error the liability of the defendant shall be limited to the amount of the overcharge: *Provided*, That where the overcharge is not willful within the meaning of Section 208(a) of this Act, no action for an overcharge may be brought by or on behalf of any person unless such person has first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within ninety days from the date of the presentation of such claim.

"(c) For the purposes of this section, the term 'overcharge' means the amount by which the consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling under regulations or orders issued under this title.

"§ 211. Judicial review

"(a) TEMPORARY EMERGENCY COURT OF APPEALS.—

"(1) CREATION.—There is hereby created a court of record of the United States to be known as the Temporary Emergency Court of Appeals.

"(2) MEMBERSHIP.—From among the judges of the United States district courts and United States courts of appeals, the Chief Justice of the United States shall designate not less than three such judges to serve as members of the Temporary Emergency Court of Appeals. The Chief Justice of the United States may from time to time (A) designate additional judges of the United States district courts and United States courts of appeals to serve as members of the Temporary Emergency Court of Appeals, and (B) revoke prior designations.

"(3) CHIEF JUDGE.—From among the judges who are designated to serve as members of the Temporary Emergency Court of Appeals, the Chief Justice of the United States shall from time to time designate one such judge to serve as the chief judge of such Temporary Emergency Court of Appeals.

"(4) DIVISIONS.—The chief judge of the Temporary Emergency Court of Appeals may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court.

"(5) SEAL; SESSIONS; CLERK.—The Temporary Emergency Court of Appeals shall have a seal, hold sessions at such places as it may specify, and shall appoint a clerk and such other employees as it deems necessary or proper.

"(6) PROCEDURE.—The Temporary Emergency Court of Appeals shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases.

"(7) POWERS.—Except as otherwise limited in this section, the Temporary Emergency Court of Appeals shall have the powers of a United States court of appeals with respect to the jurisdiction conferred on it by this title.

"(b) JURISDICTION.—

"(1) UNITED STATES DISTRICT COURTS.—Except as otherwise provided in paragraph 2 (B), the United States district courts shall have exclusive original jurisdiction of cases and controversies arising under this title and under regulations and orders issued under this title.

"(2) TEMPORARY EMERGENCY COURT OF APPEALS.—

"(A) APPEALS.—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from United States district courts in cases and controversies arising under this title and under regulations or orders issued under this title, except as otherwise provided in this section. Such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(B) CERTAIN CONSTITUTIONAL QUESTIONS.—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title and any regulation or order issued under this title.

"(3) SUPREME COURT REVIEW.—Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28 of the United States Code.

"(4) OTHER COURTS.—Except as provided in this section, no Federal, State, or local court shall have jurisdiction or power to (A) consider the constitutional validity of any provision of this title or any regulation or order issued under this title, (B) stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title authorizing the issuance of any such regulation or order, or any provision of any such regulation or order, or (C) restrain or enjoin the enforcement of any provision of this title or any regulation or order issued under this title.

"(c) PARTICULAR PROCEEDINGS.—

"(1) SUBSTANTIAL CONSTITUTIONAL ISSUE.—With respect to any civil action brought in connection with this title, or any regulation or order issued under this title, which is determined by the United States district court in which it is brought to involve a substantial constitutional issue, such district court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include (A) requiring that the entire record be sent up for determining of the entire matter in controversy, or (B) remanding the matter to the certifying court with binding instructions on the issues certified.

"(2) DECLARATORY JUDGMENTS.—The provisions of section 2201 and of title 28 of the United States Code, relating to declaratory judgments, shall apply to actions arising under this title and under regulations and orders issued under this title, notwithstanding the amount in controversy.

"(d) SETTING ASIDE REGULATIONS AND ORDERS.—

"(1) REGULATIONS.—No regulation issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation is in excess of the issuing agency's authority or is arbitrary or capricious.

"(2) ORDERS.—No order issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the issuing agency's authority, or is based upon facts which are not supported by substantial evidence.

"(e) INTERLOCUTORY DECREES; PERMANENT INJUNCTIONS; ETC.—

"(1) INTERLOCUTORY DECREE.—The Temporary Emergency Court of Appeals shall not have the power to issue any interlocutory decree staying or restraining, in whole or in part, any provision of this title or the effectiveness of any regulation or order issued under this title.

"(2) PERMANENT INJUNCTIONS.—A permanent injunction restraining the enforcement, operation, or execution of this title or any regulation or order issued under this title shall not be granted by any United States district court or judge thereof. Such an injunction may be issued by the Temporary Emergency Court of Appeals upon appeal, or, after hearing, upon recommendation of a United States district court or judge thereof. Such an injunction may also be issued by the United States Supreme Court as provided for by this section.

"(3) EFFECTIVENESS OF CERTAIN JUDGMENTS OF TEMPORARY EMERGENCY COURT OF APPEALS.—The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside, in whole or in part, any provision of this title or any regulation or order issued under this title shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (b) (3) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

"(f) APPLICATION OF SECTION.—The provisions of this section shall apply to any actions or suits pending in any Federal, State, or local court on the effective date of this section in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

"§ 212. Personnel

"(a) Any agency or officer of the United States Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this title.

"(b) The President may appoint five officers to be responsible for carrying out functions of this title of whom three shall be compensated at level III of the Executive Schedule (5 U.S.C. 5314) and two at level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

"(c) The President may require the detail of employees from any executive agency to carry out the purpose of this title.

"(d) The President is authorized to appoint, without regard to civil service laws, such advisory committees as he may deem appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(e) (1) Under such regulations as the President may prescribe, officers and employees of the United States Government who are appointed without a break in service of one work day or more to any position for carrying out the functions of this title may be entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

"(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336 (c), title 5, United States Code, shall con-

tinue to be covered thereunder while carrying out the functions of this title.

"(f) (1) In addition to the number of positions which may be placed in GS-16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS-16, 17, and 18, to carry out the functions under this title.

"(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this title.

"§ 213. Experts and consultants

"Experts and consultants may, as authorized by section 3109 of title 5 of the United States Code, be employed for the performance of functions under this title and individuals employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5 of the United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code, section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees.

"§ 214. Mass transportation systems

"No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities shall increase any fare without first obtaining approval under this section from the President or his delegate.

"§ 215. Local protest boards

"(a) The President shall establish local protest boards throughout the United States in connection with any procedure he provides for the granting to persons of exemptions from, and the making of changes in, regulations and orders issued under this title.

"(b) It shall be the function of such local protest boards to receive complaints and advise appropriate persons with respect to the need for exemptions from, or changes in, regulations and orders issued under this title. The President shall establish such local protest boards in such manner and organize them into such system so as to provide expeditious review of complaints and, when appropriate, speedy remedial action on the part of the President. No court hearing a matter brought in connection with this title or any regulation or order issued under this title shall require, as a prior condition to the bringing or carrying forward of a legal action, that a party proceed under a procedure established pursuant to this section.

"(c) In establishing such local protest boards, the President may draw upon the resources of the Internal Revenue Service or any other appropriate establishment in the executive branch of the Government, or any combination of such establishments, which can provide the necessary personnel and local facilities.

"§ 216. Funding

"(a) There is hereby authorized to be appropriated to the President, to remain available until expended, such amounts as may be necessary from time to time to carry out the purposes of this title.

"(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

"§ 217. Expiration

"The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1973, but such expiration shall not affect any action or pending pro-

ceeding, civil or criminal, not finally determined nor any action or proceeding based upon an act or acts committed prior to May 1, 1973.

"§ 218. Ratification

"The authority granted to the President by the Economic Stabilization Act of 1970, as amended, and in effect on the date of enactment of this title, in respect to the assignment of personnel and expenditure of funds in exercising that authority are hereby approved, ratified, and confirmed.

"§ 219. Severability

"If any provision of this title or the application of such provision to any person or circumstances shall be held invalid, the remainder of the title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"Sec. 220. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

"(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

"(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research development, and advanced technology and on the training and motivation of the American worker.

"(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

"(b) It shall be the objective of the President's National Commission on Productivity—

"(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

"(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

"(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

"(4) to promote sound wage and price policies in the public interests and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and with within a framework of peaceful labor-management relations and free and responsible collective bargaining;

"(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

"(6) to develop programs to deal with the social and economic problems of employees

adversely affected by automation or other technological change or the relocation of industries.

"(c) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid:

"(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

"(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

"(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

"(D) in planning for provision of adequate transportation for employees;

"(E) in the exploration of means to expand exports of the products of United States industry;

"(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

"(G) in the dissemination of technical information and other material to publicize its work and objectives;

"(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (H) of this subsection, as they are applied in foreign countries; and

"(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

"(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

"(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

"(d) (1) In exercising its duties and functions under this Act—

"(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

"(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided;

"(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c) (1);

"(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

"(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

"(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

"(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

"(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

"(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

"(e) (1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in sections 3(b) through 3(d) above.

"(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provision of title 5, United States Code, governing appointments in the competitive service, and with regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such chapter 51 and subchapter II of chapter 53.

"(f) There are hereby authorized to be appropriated the sum of \$10,000,000 to carry out the purposes of this section during the period ending April 30, 1973."

Amend the title so as to read: "An Act to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes."

The motion was agreed to.

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

TITLE AMENDMENT

Mr. PATMAN. Mr. Speaker, I offer an amendment to this title.

The Clerk read as follows:

Title amendment offered by Mr. PATMAN: Amend the title so as to read: "To extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11309) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to S. 2891, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. PATMAN, BARRETT, Mrs. SULLIVAN, Messrs. REUSS, ST GERMAIN, MINISH, WIDNALL, JOHNSON of Pennsylvania, J. WILLIAM STANTON, and BROWN of Michigan.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein relevant material on the bill just passed.

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

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1886. An act for the relief of Clayton Blon Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1828) entitled "An act to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) entitled "An act to provide additional revenue for the District of Columbia, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 36. An act to preserve and promote the resources of the Connecticut River Valley, and for other purposes;

S. 889. An act to restore the postal service seniority of Elmer Erickson;

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2429. An act to amend the District of Columbia Unemployment Compensation Act in order to conform to Federal law, and for other purposes; and

S. 2677. An act to authorize programs in the District of Columbia to combat and control the disease known as sickle cell anemia.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have asked for this time for the purpose of asking the distinguished majority leader the program for the remainder of this week and for next week, if any.

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

Mr. GERALD R. FORD. I yield to my friend the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, responding to the question of the distinguished minority leader, we plan to conclude one conference report today, that is the conference report on the District of Columbia Revenue Act authorization. After that, we plan to go over to Monday next to conclude the business of this session.

On Monday and for the balance of
CXVII—2897—Part 35

the week, we have scheduled the five bills from the District of Columbia Committee:

H.R. 12115, interest and consumer amendment;

S. 1938, interest and usury amendment;

H.R. 11992, Election Act amendment;

H.R. 10237, Unemployment Compensation Act amendment; and

H.R. 11628, hospitals and medical facilities authorization.

In addition, we will call up a continuing resolution from the Committee on Appropriations on Monday which will cover appropriations for the foreign aid agency.

There are a number of other conference reports remaining and we hope to take all of those up on Monday. If not on Monday, certainly no later than Tuesday.

We hope to conclude the business of this session on Monday—and again, if not on Monday, no later than Tuesday.

Mr. GERALD R. FORD. I thank the distinguished majority leader.

ADJOURNMENT OVER TO MONDAY

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

The SPEAKER. Without objection, it is so ordered.

There was no objection.

RESIGNATION FROM COMMITTEE ON THE DISTRICT OF COLUMBIA

The SPEAKER laid before the House the following resignation from a committee:

WASHINGTON, D.C.,
December 10, 1971.

HON. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I respectfully submit my resignation from the District of Columbia Committee effective at once.

With respect and regards,

Yours sincerely,

WILLIAM L. HUNGATE.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

CURTIS A. CHRISTIANSON

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

Mr. NELSEN. Mr. Speaker, we have on our staff here in the Congress Curtis A. Christianson from Minnesota. He came to Washington in 1930 and worked with Congressman Jones at that time. In 1943 to 1945 he was in the U.S. military service, working with the Norwegian Government, and was personally decorated by the King of Norway—now that is really an accomplishment.

He resumed his service on Capitol Hill as a tally clerk in 1946 and has served

faithfully and conscientiously until the present time and will retire at the end of this session.

Curtis was born in 1906 on a large farm near Dawson, Minn. He was one of seven children and his brother, Theodore, served as the Governor of Minnesota from 1925 to 1931, and was later a Representative in Congress for 4 years. Curtis married Bertha Duncan from Montana. He first met his wife while they were both waiting in line on the first day they attended McAlester College in St. Paul, Minn. He graduated from George Washington University in Washington, D.C., and started his career in Washington at the Library of Congress in 1930.

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

Mr. NELSEN. I yield to the distinguished chairman of the Committee on the District of Columbia.

Mr. McMILLAN. Mr. Speaker, I would like to associate myself with the remarks made by the gentleman from Minnesota. I have been in this body almost the same length of time as has Mr. Christianson. I have never known a more loyal worker on Capitol Hill. I know he has been a great asset to the Congress since he has been serving in the position he holds today.

Mr. NELSEN. I thank the gentleman.

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

Mr. NELSEN. I yield to the majority leader.

Mr. BOGGS. I would like to thank the gentleman for the statements he has made about a most loyal and dedicated employee of this body, Curtis Christianson. All of us know that without employees who work here day in and day out like Chris, this institution could not function. I join in wishing him our best.

Mr. BROYHILL of Virginia. Mr. Speaker, I join with the gentleman from Minnesota in expressing sincere appreciation to Curtis Christianson for many, many years of outstanding, loyal, and devoted service to the House of Representatives. He has served us for 42 years, a long time to serve any one employer. There is no question that his retirement will represent a great loss to the Congress of the United States.

While I offer him my wholehearted congratulations for a job well done, I do not join with my colleagues in bidding him farewell. He is a resident of Arlington County, Va., and a constituent of mine. I therefore say, "I'll be seeing you, Chris," because I know we will be working together in the future for the best interests of good government. I do join my colleagues in wishing him many years of good health and a pleasant retirement.

Mr. ZABLOCKI. Mr. Speaker, it is an honor to join my colleagues in paying tribute to Curtis Christianson on his retirement as assistant tally clerk to the House of Representatives. His long and untiring service has been a commendable contribution to the Congress. He will be missed by his many friends at the Capitol. I want to wish "Chris" the best of health, happiness, and every success in his future endeavors.

GENERAL LEAVE

Mr. NELSEN. Mr. Speaker, I ask unanimous consent that other Members may be permitted to insert their remarks relative to this very fine public servant within the next 5 days.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERSONAL EXPLANATION

Mr. JONES of North Carolina. Mr. Speaker, on rollcall No. 458 I was in my office attending to official business, in conference with the Honorable William Dwyer of the British Embassy. Therefore I was not present at the rollcall. If I had been present, I would have voted "yea."

CONFERENCE REPORT ON H.R. 11341, DISTRICT OF COLUMBIA REVENUE ACT OF 1971

Mr. CABELL. Mr. Speaker, I call up the conference report on the bill (H.R. 11341), to provide additional revenue for the District of Columbia, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

Mr. GROSS. Reserving the right to object, Mr. Speaker, is it proposed to take some time to explain to the House what appears in this conference report, and particularly with reference to the provisions for fiscal 1973? If it is, I have no objection; but if not, we will be around here for as long as I can prolong this session, because I want a real explanation of why the committee went beyond, it seems to me, all bounds in forward financing of the District of Columbia.

Mr. CABELL. If the gentleman will yield, as a manager on the part of the House, I shall be delighted to provide all the information it is possible to give the gentleman.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 9, 1971.)

The SPEAKER. The gentleman from Texas is recognized for 30 minutes and the gentleman from Minnesota will be recognized for 30 minutes.

Mr. CABELL. Mr. Speaker, I yield myself such time as I shall consume.

The conferees went into the conference dedicated to the premise that we would retain as much of the wishes, the demands, and the mandate of the House as we could possibly retain. While we were not capable of batting 1,000 percent, we came out with a batting average of better than 0.750.

For example, the Senate receded on 23 of their amendments which were in controversy, while the House found it

necessary to recede on only two minor amendments.

There was one point at which the House found itself unable to do other than to make some slight concessions.

The authorization as passed by the House called for a Federal base payment of \$170 million for the fiscal year 1972. The Senate bill called for \$181 million as a base contribution, plus, or in line with, a percentage factor of 43 percent of the revenues which they collect.

They further extended in their bill a second-year authorization, plus a factor of inflation allowance that would have made their contribution approximately \$190 million, or could have been even greater by applying the 43 percent factor.

Under the agreement made by the conferees, we agreed to a base contribution of \$173 million, and in addition, a contingency of \$6 million, which would be one-half a year's cost provided the Congress approved a salary increase for the classified workers. We further agreed that we would accept a base rate of \$178 million for the second year, and with the contingency of \$12 million provided that the pay increases came up to that amount. The rationale behind that was—and the committee report very clearly stated it—that we will not conduct revenue hearings for fiscal year 1973, but that is it, do not come back screaming and moaning for any more.

I might say further than in the event the police, firemen and teachers were granted a raise by the Congress, it could only be made effective if they raised their own taxes within the district by whatever they requested for this increase for the police, firemen, and teachers.

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

Mr. CABELL. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Speaker, it was my understanding, and I left early but I did sit in on another part of this committee's deliberations—that the \$6 million in addition to the \$173 million is contingent upon the action of the Congress. If we raise it, that amount will be added; if we do not raise it, that amount will not be added.

Mr. CABELL. The gentleman is correct.

Mr. NELSEN. In other words, if it is done by our action, then we are responsible—in other words, if we want to hold it down to \$173 million, that is up to us to do it.

Mr. CABELL. That is entirely correct.

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

Mr. CABELL. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, why the forward financing?

If the pay raise is granted, Congress could fund it whether in 1972 or 1973. It would be \$6 million in the remainder of the fiscal year 1972 and \$12 million, as I understand it, for all of fiscal year 1973; is that not correct?

Mr. CABELL. Mr. Speaker, if the gentleman will yield; that is correct.

May I remind the gentleman that this will not be funded. This is a contingency that will be funded only in the event that this Congress grants those pay increases and will only be funded up to this maximum amount.

Mr. GROSS. But why the authorization? I do not understand why, and I do not understand why you are authorizing funds for the District of Columbia for fiscal year 1973.

Mr. CABELL. The reasoning behind that, if the gentleman will yield, is as I tried to explain, that this will eliminate the cry that they do not know what they are going to get, and they cannot prepare their budget. Consequently, when we tell them flatfootedly that this is the maximum they are going to get, and they had better learn how to live with it, the rationale was possibly this will have a deterrent effect on their coming up and wanting to double practically the amount of the contribution they have been getting from year to year.

Mr. GROSS. Mr. Speaker, if the gentleman will yield further, so far as I know Congress has not authorized nor appropriated funds for other pay increases to Federal employees that might be approved as of January 1. But I have not seen funds for this purpose in any appropriation bill. If anyone else has seen funds for that purpose, tell me about it. Or are you doing this because the House District Committee seeks a more comfortable way of life?

Or is that to fend off people who come in wanting money for certain projects? Is it beyond the capability of the House District Committee to fend off the District of Columbia lobbyists who come here wanting more and more money all the time? I am beginning to believe that when these pampered city officials cannot get money they will be perfectly willing to take our blood.

Mr. CABELL. May I say that the District of Columbia Committee has long since abandoned the idea that we will ever enjoy a more gracious life.

Mr. GROSS. This conference report would increase the Federal kick-in to the District of Columbia—tell me if I am incorrect—up to \$190 million in fiscal year 1973, if there is a pay increase?

Mr. CABELL. The gentleman is entirely correct, provided that the Congress authorizes such a pay increase.

Mr. GROSS. And that despite the fact that in the last fiscal year the Federal kick-in to the District of Columbia was \$162 million; is that not correct?

Mr. CABELL. No, sir.

Mr. GROSS. I am not talking about the current fiscal year; I am talking about the previous fiscal year.

Mr. CABELL. In the previous fiscal year, I hasten to advise, it was \$126 million.

Mr. GROSS. Is it \$126 million?

Mr. CABELL. That is correct.

Mr. GROSS. For the District of Columbia to go from \$126 million in fiscal year 1971 to \$190 million projected for 1973 is an incredible gouging of the taxpayers of the Nation.

Mr. CABELL. I would be the last man in the world to quarrel with my distin-

guished friend from Iowa over his statement that these costs have gone up in orbit.

However, there are 435 Members of the House and there are 100 Members of the other body. The individual desires of a very astute and careful man such as the gentleman from Iowa do not always prevail.

Mr. GROSS. I doubt that I will prevail this time, either, but Members can be assured they will have an opportunity to vote on this, if I have my way and if someone does not beat me to it. They will have an opportunity to vote on this unconscionable increase in the handout to the District of Columbia. I just cannot believe it.

Mr. CABELL. If the gentleman will permit, I believe that this will save some trouble, furthermore, because either in the general Federal budget or this budget, had we not made this contingent provision, they would have been back in here with a supplemental which would have had to be granted if it had been provided. This will at least eliminate one more supplemental appropriation being laid before us.

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

Mr. CABELL. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding to me to the extent that he has.

Even though this is a comparatively small amount of the billions of dollars authorized by Congress, it is another example of the improvidence on the part of the Congress of the United States and the executive branch of the Government that brought us today to the sad and sorry spectacle of witnessing an extension of the Stabilization Act which is destructive of competition in this country, destructive of the once proud record of this country in behalf of private and free enterprise. The House approved the so-called Stabilization Act because of improvidence, and irresponsibility in the spending of public funds and this is symbolic of that improvidence of the past, I would say to the gentleman.

Mr. CABELL. The gentleman at the microphone will state he would not have the temerity to argue with the very erudite statements just placed in the RECORD by the gentleman from Iowa.

Mr. Speaker, at this time I yield to the distinguished chairman of the full committee (Mr. McMILLAN).

Mr. McMILLAN. Mr. Speaker, the House District Committee has worked diligently for long hours during the past few months in an effort to try to reduce some of the expenditures in the Nation's Capital. We realize everything, including salaries, has increased substantially during the past 3 years; however, we thought possibly there might be some programs that could be eliminated without drastically affecting the efficiency of the District government.

Congressman CABELL, of Texas, has spent between 3 and 4 months checking into numerous expenditures in the Na-

tion's Capital; however, since the legislative committee is not in any position to reduce or cut off some of these programs, we can only point out to the taxpayers and the Appropriations Committee where we think expenditures could be reduced.

We know that the public welfare program in the District of Columbia has completely gotten out of hand. Every applicant should be properly checked to see if they are physically able to work and what conditions exist in their homes. I believe millions and millions of dollars could be saved for the taxpayers in the Nation's Capital and throughout the United States if a check of this nature could be made of the residents here in the District of Columbia. Each applicant for public welfare assistance in South Carolina is checked before he or she is granted public welfare benefits.

We spent 3 days in conference with the Senate conferees and I believe we came out with the best bill we could possibly have under the circumstances. I want to congratulate the members of the committee on the very difficult and hard work they have done in an effort to solve some of the problems confronting the District of Columbia during this session of Congress.

Mr. CABELL. Does the distinguished ranking member desire time?

Mr. NELSEN. Yes. I just want to make some comments relative to the way that the budget has grown.

In our deliberations in the committee, rather than take the figures that the District gave us, I asked that they give me the figures they had previously had and then give me the figures as to the things that were added by the Congress.

For example, policemen, as I recall, cost \$19 million. We demanded more policemen. We got them, but it cost us \$19 million.

In the court reorganization and the new judges, which has been for years a demand of the Congress, we never got it. Finally, after long and hard work, we proceeded and did pass the crime bill which set up a new court system with a new superior court. We have about 5,000 cases that are untried, of criminals roaming the streets, repeaters out on bail. They have never been tried. This has to be done, seemingly.

We could go on further to point out the Washington Technical School and the liberal arts college which are things that we did in the Congress.

I know of no way to change the picture as it stands, but I do know this: It is not a comfortable seat to be on the District of Columbia Committee. I am surprised that people would even spend their time there, because it is nothing but a hazard to be on it.

I must say to Mr. CABELL and to Mr. McMILLAN that we did our best in the conference to try to hold it down to the \$170 million which I felt they had to live within. The salary increases are there, and the contingency funds are totally dependent on what we do here. If we want to hold it down to \$173 million, you will have a chance to do so when you vote.

I hope the report is adopted. I want to say that I am not critical of

my friend from Iowa (Mr. GROSS) for being an observing and diligent Member in his endeavors to hold the line, because it seems to me it is darn near time that we gave thought to it right here in the District of Columbia.

I may say that our group is working carefully in the hope that we can find ways to hold the line, and we have to improve things here so that a better picture may evolve because of better administration of the city government.

I thank the gentleman for yielding and thank my chairman for his diligent efforts, also.

Mr. CABELL. I yield to the gentleman from Mississippi (Mr. COLMER).

Mr. COLMER. I thank the gentleman for yielding.

I merely ask for this time in order to associate myself with the remarks of the gentleman from Iowa about this Federal contribution which is going out of all bounds.

Mr. CABELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered. The SPEAKER pro tempore (Mr. Boggs). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 242, nays 93, not voting 96, as follows:

[Roll No. 459]

YEAS—242

Abourezk	Carey, N.Y.	Fountain
Abzug	Carney	Fraser
Adams	Carter	Frelinghuysen
Addabbo	Casey, Tex.	Frenzel
Anderson,	Cederberg	Frey
Calif.	Clausen,	Gallagher
Anderson, Ill.	Don H.	Garmatz
Anderson,	Cleveland	Gaydos
Tenn.	Collier	Gettys
Arends	Conable	Gialmo
Ashley	Conte	Gibbons
Aspin	Coughlin	Gonzalez
Aspinall	Culver	Gray
Badillo	Curlin	Green, Oreg.
Barrett	Daniels, N.J.	Green, Pa.
Begich	Danielson	Halpern
Bergland	Davis, Ga.	Hamilton
Biaggi	de la Garza	Hanley
Blester	Delaney	Hanna
Bingham	Dellenback	Hansen, Idaho
Boggs	Dellums	Hansen, Wash.
Bolling	Denholm	Harrington
Brademas	Dingell	Harvey
Brasco	Donohue	Hathaway
Brinkley	Dorn	Hawkins
Brooks	Dow	Hechler, W. Va.
Broomfield	Drinan	Heckler, Mass.
Brotzman	Dulski	Heinz
Brown, Mich.	du Pont	Helstoski
Brown, Ohio	Dwyer	Henderson
Broyhill, Va.	Edwards, Ala.	Hicks, Mass.
Buchanan	Edwards, Calif.	Hillis
Burke, Mass.	Erlenborn	Hogan
Burleson, Tex.	Fascell	Hollifield
Burlison, Mo.	Fish	Horton
Burton	Flood	Howard
Byrne, Pa.	Flowers	Hull
Byrnes, Wis.	Ford, Gerald R.	Jacobs
Byron	Ford,	Jarman
Cabell	William D.	Johnson, Calif.
Caffery	Forsythe	Jones, Ala.

Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Koch
Kyros
Landrum
Leggett
Lent
Link
McClary
McCloskey
McClure
McCormack
McCulloch
McDade
McDonald,
Mich.
McFall
McKay
McMillan
Macdonald,
Mass.
Madden
Mahon
Mailliard
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Miller, Calif.
Minish
Mitchell
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.

Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Neill
Perkins
Pickle
Pike
Pirnie
Poage
Podell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Quile
Rallsback
Rees
Reid, N.Y.
Rhodes
Riegler
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarbanes
Scheuer
Schwengel
Scott
Seiberling
Shipley

Shriver
Sikes
Sisk
Smith, N.Y.
Staggers
Stanton,
J. William
Stanton,
James V.
Steele
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Symington
Taylor
Teague, Tex.
Thompson, N.J.
Tiernan
Ullman
Vander Jagt
Vanik
Vigorito
Waldie
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Williams
Wilson, Bob
Winn
Wolf
Wyatt
Wyman
Yates
Yatron
Young, Tex.
Zablocki
Zwach

NAYS—93

Abbt
Abernethy
Andrews,
N. Dak.
Archer
Baker
Baring
Bennett
Bevill
Bray
Burke, Fla.
Camp
Chappell
Clancy
Clawson, Del.
Collins, Tex.
Colmer
Crane
Daniel, Va.
Davis, Wis.
Dennis
Devine
Dickinson
Downing
Duncan
Findley
Fisher
Flynt
Goodling
Griffin
Gross
Grover

Hagan
Haley
Hall
Hammer-
schmidt
Harsha
Hosmer
Hungate
Hunt
Hutchinson
Ichord
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Long, La.
Long, Md.
McCollister
McEwen
Mathis, Ga.
Mayne
Michel
Miller, Ohio
Mills, Md.
Montgomery
Myers

Nichols
O'Konski
Passman
Poff
Price, Tex.
Purcell
Quillen
Randall
Rarick
Robinson, Va.
Rousselot
Ruth
Satterfield
Saylor
Schmitz
Sebelius
Shoup
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Teague, Calif.
Terry
Thompson, Ga.
Thompson, Wis.
Waggoner
Whitten
Wiggins
Young, Fla.
Zion

NOT VOTING—96

Alexander
Andrews, Ala.
Annunzio
Ashbrook
Belcher
Bell
Betts
Blackburn
Blanton
Blatnik
Boland
Bow
Broyhill, N.C.
Celler
Chamberlain
Chisholm
Clark
Clay
Collins, Ill.
Conyers
Corman
Cotter
Davis, S.C.
Dent
Derwinski
Diggs

Dowdy
Eckhardt
Edmondson
Edwards, La.
Ellberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Foley
Fulton, Tenn.
Fuqua
Galifianakis
Goldwater
Grasso
Griffiths
Gubser
Gude
Hastings
Hays
Hébert
Hicks, Wash.
Kluczynski
Kuykendall
Lloyd
Lujan

McKevitt
McKinney
Mann
Martin
Metcalfe
Mikva
Mills, Ark.
Mink
Minshall
Mizell
Mollohan
Morse
Patman
Patten
Pelly
Pepper
Pettis
Peyser
Powell
Rangel
Roncallo
Rostenkowski
Roush
Runnels
Scherle

Schneebell
Spence
Springer
Steed
Steiger, Ariz.
Stephens
Stokes

Sullivan
Talcott
Thone
Udall
Van Deerlin
Veysey
Whalley

Wilson,
Charles H.
Wright
Wylder
Wylie

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Gude.
Mr. Hébert with Mr. Gubser.
Mr. Hays with Mr. Bow.
Mr. Roncallo with Mr. Peyser.
Mr. Rostenkowski with Mr. Martin.
Mr. Blatnik with Mr. Goldwater.
Mr. Blanton with Mr. Hastings.
Mr. Andrews of Alabama with Mr. Ashbrook.
Mr. Hicks of Washington with Mr. Metcalfe.
Mr. Boland with Mr. McKevitt.
Mr. Celler with Mr. Collins of Illinois.
Mr. Kluczynski with Mr. Kuykendall.
Mr. Clark with Mr. Eshleman.
Mr. Mann with Mr. Belcher.
Mr. Charles H. Wilson with Mr. Conyers.
Mrs. Sullivan with Mr. Lujan.
Mr. Wright with Mr. Esch.
Mr. Mollohan with Mr. Bell.
Mr. Mikva with Mrs. Chisholm.
Mr. Pepper with Mr. Lloyd.
Mr. Reuss with Mr. Stokes.
Mr. Fulton with Mr. McKinney.
Mr. Fuqua with Mr. Betts.
Mr. Galifianakis with Mr. Broyhill of North Carolina.

Mr. Foley with Mr. Diggs.
Mr. Evins of Tennessee with Mr. Minshall.
Mr. Roush with Mr. Chamberlain.
Mr. Evans of Colorado with Mr. Pelly.
Mr. Ellberg with Mr. Scherle.
Mr. Edmondson with Mr. Mizell.
Mr. Mills of Arkansas with Mr. Morse.
Mr. Steed with Mr. Pettis.
Mr. Stephens with Mr. Blackburn.
Mr. Alexander with Mr. Derwinski.
Mr. Cotter with Mr. Powell.
Mrs. Grasso with Mr. Clay.
Mr. Dent with Mr. Rangel.
Mr. Davis of South Carolina with Mr. Spence.

Mr. Corman with Mr. Talcott.
Mr. Van Deerlin with Mr. Veysey.
Mr. Udall with Mr. Schneebell.
Mr. Patten with Mr. Steiger of Arizona.
Mr. Dowdy with Mr. Thone.
Mr. Eckhardt with Mr. Springer.
Mrs. Mink with Mr. Whalley.
Mrs. Griffiths with Mr. Wylder.
Mr. Runnels with Mr. Wylie.

Mr. POAGE changed his vote from "nay" to "yea."

Messrs. LONG of Louisiana and GOODLING changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. CABELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 11341.

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

There was no objection.

COMMENT MADE BY MEMBER OF OTHER BODY

(Mr. MICHEL asked and was given permission to address the House for 1

minute, to revise and extend his remarks and include extraneous matter.)

Mr. MICHEL. Mr. Speaker, the Peoria Journal Star on December 1 printed an interview with a Member of the other body, the Senator from South Dakota who is seeking to become a presidential nominee.

During the interview the nomination of Lewis F. Powell, Jr. to the Supreme Court was discussed. The Journal Star reported:

Though giving the 64-year-old Virginian a "C" rating, he said, "We won't have to live with him very long."

This is a highly improper, cynical and callous statement, certainly one unworthy of a Member of the other body, and definite indication of his lack of fitness for consideration for the Presidency. Comment on a man's occupational abilities is one thing, but a personal attack such as this on a distinguished legal scholar, who was approved with only one dissenting vote, indicates a politically ruthless character. While the Senator is making his campaign pitch on his alleged humanitarian image and concern for the people, this statement is indicative of an entirely different personality.

All I can say about the Member of the other body who made this statement, is that way down deep, you know he is shallow.

THE RIGHT OF ATTORNEYS TO COMMENT ON THE JUDICIARY

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

Mr. KOCH. Mr. Speaker, the appellate division, first department, of the New York State judiciary has commenced disciplinary proceedings which I believe threaten the impartiality and efficiency of our judicial system, and which merit the attention of our colleagues.

The facts, briefly, are these: Martin Erdmann, an attorney with the Legal Aid Society in New York, in charge of the society's Supreme Court operations in the five boroughs, was the subject of a recent article in Life magazine. The article detailed Erdmann's activities as a lawyer and quoted his views on judges in New York, as follows:

There are so few trial judges who just judge, who rule on questions of law, and leave guilt or innocence to the jury. And Appellate Division judges aren't any better. They're the whores who became madams.

Asked if he would like to be a judge, Erdmann replied:

I would like to—just to see if I could be the kind of judge I think a judge should be. But the only way you can get it is to be in politics or buy it—and I don't even know the going price.

Because of Erdmann's criticisms, the appellate division lodged a complaint against him with the grievance committee of the Association of the Bar of the city of New York. The committee investigated the matter and decided to take no action.

The appellate division then began its own proceedings to punish and perhaps

disbar Erdmann on the grounds that his remarks lessen public confidence in our legal system. The trial is to be conducted before the appellate division, third department in Albany, which now makes the appellate division, an object of Erdmann's criticism, his accuser, judge and jury.

In my estimation, public confidence in the judiciary is undermined far more by the appellate division's action in this case than by the remarks of Martin Erdmann.

The public has little knowledge of the day-to-day administration of justice, but it does know that our courts are desperately in need of reform and that judgeships are often obtained through political influence rather than ability.

Martin Erdmann then has only articulated, on the basis of 25 years' experience in our courts, what the public is more or less aware of, and his views surely reflect those of many other practicing lawyers. The disciplinary proceedings initiated by the appellate division seem clearly intended to intimidate and thereby suppress healthy criticism that is essential if we are to reform our courts. It is one thing to hold an attorney in contempt for statements made in open court and entirely another to punish him for exercising his first amendment right to speak out on a matter of urgent public interest on which he is particularly knowledgeable and qualified.

No one in our society should be immune from legitimate criticism. This attempt to silence Martin Erdmann is a serious error that will only serve to deter other experienced and public spirited attorneys from speaking out and, in the end, will harm the public and the judiciary.

I urge all members of the New York Bar to contact the New York Civil Liberties Union to register their support of Martin Erdmann and to learn how they can join with their fellow members of the bar in upholding the first amendment right of attorneys to comment on the judiciary.

CANNIKIN JUDICIAL DECISION

Mr. BOGGS. Under a previous order of the House the gentleman from California (Mr. HOSMER) is recognized for 10 minutes.

Mr. HOSMER. Mr. Speaker, I have recently seen a copy of a judicial decision rendered on November 2, 1971, by the Honorable Raymond E. Plummer, U.S. district judge for the district of Alaska, which dismissed a suit to prevent the Cannikin test on Amchitka Island in the case of the Aleut League versus the Atomic Energy Commission. His decision was not appealed.

My colleagues are already aware that the test was successfully conducted on November 6, 1971.

The Cannikin test was also the subject of other litigation in the U.S. District Court for the District of Columbia, appellate decisions by the U.S. Court of Appeals for the District of Columbia, and a denial by the U.S. Supreme Court of an application to enjoin the test. At the Supreme Court level a written opinion was prepared by only one of the dissenting

Justices. There was no written opinion of the majority of the four Justices who, after hearing oral argument on November 6, 1971, denied the application for an injunction. The Supreme Court action on that date was preceded by an order of the U.S. district court on November 1 denying a request for a preliminary injunction and by a per curiam opinion of the U.S. Court of Appeals for the District of Columbia Circuit on November 3 which denied the plaintiffs' appeal from the lower court decision.

Although these appellate decisions arising out of the litigation in the U.S. District Court for the District of Columbia are available, in my view Judge Plummer's decision deals most comprehensively and lucidly with the Cannikin issues raised in the Alaskan suit. Accordingly, I include it in its entirety in the Record at this point:

[No. A-127-71 Civil]

IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF ALASKA

(The Aleut League, on behalf of itself, its members and all those similarly situated, Plaintiffs, versus The Atomic Energy Commission; James R. Schlesinger, Chairman of the Atomic Energy Commission; James T. Ramey, Wilfred E. Johnson, Clarence E. Larson and William O. Doub, Commissioners of the Atomic Energy Commission, Defendants.)

JUDGMENT

This case came on for hearing before the court on September 27 and 28, 1971 on plaintiffs' motion for a preliminary injunction and defendants' motion for summary judgment or, alternatively, dismissal. On October 12, the parties filed a stipulation agreeing that the hearing held on September 27 and 28 would be considered by both sides to be a full hearing on the merits; and the court having considered the testimony of the witnesses called by the respective parties, all documents and exhibits offered and admitted into evidence, the briefs and arguments of counsel, and having filed its Findings of Fact, Conclusions of Law and Order for Judgment

NOW, THEREFORE, pursuant thereto, it is determined by the court that plaintiffs take nothing by this action and the same is hereby dismissed.

MEMORANDUM OF DECISION AND ORDER

On September 2, 1971, plaintiffs commenced this action specifically to prevent the detonation of a nuclear device termed Cannikin on Amchitka Island. Plaintiffs' motion for a preliminary injunction was filed on September 13, 1971, and defendants' motion for summary judgment or alternatively, dismissal, was filed on September 21, 1971. Hearings were held on both motions on September 27 and 28.

On October 8, the court denied plaintiffs' motion for a preliminary injunction, reserved judgment on defendants' motion for summary judgment or dismissal, and ordered a full hearing on the merits to commence on October 13. A stipulation was filed October 12, wherein the parties agreed that the hearing held September 27 and 28 would be considered by both sides to be a full hearing on the merits and that the standing of plaintiffs to sue in this action and their position as proper parties would not be contested by defendants.

Therefore, a brief was filed by defendants on October 22 and by plaintiffs on October 25.

JURISDICTION

Federal courts have special and limited jurisdiction, so the threshold inquiry in each case must be directed toward a determination of whether the court has power

to entertain and decide the matter in controversy in the proceeding before it. United States District Courts have no jurisdiction except that conferred by the Constitution and laws of the United States and the presumption is, that the case is without their jurisdiction, unless the contrary affirmatively appears.

The party asserting jurisdiction has the burden of proof, and, if his allegations of jurisdictional fact are challenged in an appropriate manner, he must support them by competent proof.

Jurisdiction cannot be conferred by consent, waiver or conduct of the parties, and if the question is not otherwise suggested, the court must in every case on its own motion determine whether it has jurisdiction.

Paragraph 2 of plaintiffs' complaint alleges that jurisdiction is conferred upon this court by: 5 U.S.C. §§ 701-706 (Administrative Procedure Act); 28 U.S.C. § 1331 (Federal Question); 28 U.S.C. § 1343 (Civil Rights); 28 U.S.C. § 1353 (Indian Allotments); 28 U.S.C. § 1361 (Mandamus); and 43 U.S.C. § 1332 (Federal Control over the Outer Continental Shelf).

The statutes alleged by plaintiff, with the exception of 43 U.S.C. § 1332 (Federal Control over the Outer Continental Shelf), are ones which would empower the court to act if plaintiff has proved facts bringing it within their purview. 43 U.S.C. § 1332 is a declaration of the policy, jurisdiction and construction of the United States with reference to the subsoll and seabed of the Outer Continental Shelf. It is not a statute conferring jurisdiction on the United States District Courts.

Paragraph 3 of plaintiffs' complaint alleges that this action arises under: The Fifth Amendment to the Constitution of the United States (Due Process, Equal Protection); 25 U.S.C. §§ 2, 9 and 43 U.S.C. § 1457(10) (Fiduciary obligations owed to Indians); 33 U.S.C. §§ 1151, 1162 (Control of Water Pollution by Hazardous Substances); 42 U.S.C. § 2011 et seq. (Atomic Energy); 42 U.S.C. §§ 4331-4332 (National Environmental Policy Act), 48 U.S.C. § 357, as amended (Alaska Native Allotments); and that the matter in controversy herein exceeds \$10,000 exclusive of interest and costs.

The Fifth Amendment to the Constitution of the United States in pertinent part provides in substance that no person shall be deprived of life; liberty, or property, without due process of law; nor shall private property be taken for public use, without a just compensation.

Plaintiff asserts that defendants' preparation and planned execution of the CANNIKIN nuclear experiment amounts to a violation of its Fifth Amendment right to due process and guarantee against the taking of private property without just compensation. There is no evidence that plaintiff is the owner of any personal or real property. The major portion of the Aleutian Islands is a national wildlife refuge. There is some private ownership of real property by members of plaintiff's league in Unalaska and a few other places. There are references to ownership of fishing boats, air planes, fishing and hunting rights and claims of aboriginal title. Plaintiff has not proved that it or any of its members have any vested interest in hunting rights, fishing rights or aboriginal title to any land. See *Tlingit and Haida Indians of Alaska v. United States*, 389 F.2d 778 (Ct. Cl. 1968). The evidence does not establish that plaintiff or any of its members have been or will be deprived of life, liberty or property, without due process of law or that any private property has been or will be taken for public use, without just compensation.

The Fifth Amendment contains no equal protection clause and restrains only such discriminatory legislation by Congress as

amounts to a denial of due process. Due process of law and the equivalent phrase "law of the land" have frequently been defined to mean a general and public law operating equally on all persons in like circumstances, and not a partial or private law affecting the rights of particular individuals or class of individuals in a way in which the same rights of other persons are not affected. Plaintiffs assert that in view of the fact that the Aleutian Islands on which the proposed detonation will occur are populated principally by Aleut people, minority people, that the United States has not taken proper cognizance of the interests of these people and the action of the proposed detonation therein and of itself constitutes discrimination against them as opposed to other persons in the United States of America. Plaintiff also asserts that the location of this test on Amchitka Island in the Aleutians is discriminatory against the Aleut people and does constitute possible serious harm to their lives, property and culture, while the AEC has recognized the rights of other persons, specifically, those who live in other zones that might be affected by a nuclear detonation if it were detonated in some other part of this country or elsewhere.

Courts may take judicial notice of the federal census or of an official census taken under the state laws such as a school census, and of the results of such censuses and can resort for information to appropriate documents of reference. The 1970 Census of Population, PC(VI)-3, Alaska, Advance Report, December 1970, pages 6-9, reflects the following:

Location:	Population
Shemya	1,131
Adak	2,249
Atka	88
Nikolski	57
Unalaska	178
Akutan	101
False Pass	62
Pavlov Harbor	39
Cold Bay	256
King Cove	283
Belkofski	59
Sand Point	360
Squaw Harbor	65
Ivanov Bay	48
Perryville	94
Chignik	83
Chignik Lake	117
St. Paul	450
St. George	163
Nelson Lagoon	43

The above information also appears in 1970 Census of Population, Number of Inhabitants, Alaska, PC(1)-A3, Issued May 1971, pages 3-10.

The 1970 Census of Population and Housing Final Report, April 1971, PHC(2)-3 Alaska, pages 3-7, provides the following information:

Aleutian Islands:	
White	5,564
Negro	237
All others	2,256
Total	8,057

Judicial notice may be taken of the relative distances from certain places to other parts of the same state. In this manner or by use of a map with a scale showing the number of miles per inch, the approximate distances between the villages lying easterly of Amchitka Island may be ascertained. The court has determined these distances to be approximately as follows:

From Amchitka to:	Approximate miles
Adak	200
Atka	300
Nikolski	550
Unalaska	650
Akutan	700

False Pass	900
Pavlov Harbor	
Cold Bay	930
King Cove	
Belkofski	960
Sand Point	1,030
Squaw Harbor	
Ivanov Bay	
Perryville	1,210
Chignik	1,260

Plaintiff's Exhibit 32 reflects that the distance from Amchitka to Shemya, which is located westerly of Amchitka, is 250 miles. There are no Aleuts residing on Amchitka Island and there are no Aleut villages on the Aleutian Chain westerly of Amchitka.

From the foregoing, it is readily apparent that there are 3,380 persons residing at Shemya and Adak that are nearer to Amchitka than the 88 persons who reside at Atka, the Aleut village located nearest to Amchitka, and that there are 5,795 non-Aleuts as compared to a possible 2,256 Aleuts that live on the Aleutian Islands. There is no evidence that the 2,256 Aleuts have been or will receive protection or treatment different in any degree or respect than that which has been or will be afforded the 5,795 non-Aleuts residing in the area. Plaintiff's assertion of discrimination and lack of equal protection as to the Aleut people has no factual basis.

25 U.S.C. § 2 provides that the Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to such regulations as the President may prescribe, have the management of all Indian affairs and of all matters arising out of Indian relations.

25 U.S.C. § 9 provides that the President may prescribe such regulations as he may think fit for carrying into effect the various provisions of any Act relating to Indian affairs and for the settlement of the accounts of Indian affairs.

43 U.S.C. § 1457 provides that the Secretary of the Interior is charged with the supervision of public business relating to certain following subjects and agencies therein stated included in which is the subject of Indians.

These statutes are totally unrelated to any rights, duties or responsibilities between plaintiff and the defendants in this case.

33 U.S.C. § 1151 pertains to the Congressional declaration of policy in controlling water pollution and the right of States to waters.

33 U.S.C. § 1162 relates to the control of pollution by hazardous substances, and authorizes the President to promulgate rules and regulations designating hazardous substances and to recommend methods and means for the removal of such substances.

These statutes are unrelated to the defendants and the proof in this case.

48 U.S.C. § 537, as amended August 2, 1956, C. 891 § 1(a)-(d), 70 Stat. 954, 43 U.S.C. § 270-1, authorizes the making of homestead allotments to native Indians, Aleuts, or Eskimos.

28 U.S.C. § 1353, provides that the District Courts shall have original jurisdiction of any civil action involving the right of any person, in whole or in part of Indian blood or descent, to any allotment of land under any Act of Congress or treaty. The complaint demonstrates that it does not seek relief on behalf of plaintiff or its members as persons who have been excluded from an allotment or have been excluded from or are entitled to possession of a parcel of land. The statutes cited by plaintiff are obviously intended to provide relief to Aleuts entitled to possession of allotments and similar interests. The cases and statutory law have ascribed to the word "allotment" a well recognized meaning. The nature of the interest asserted by plaintiff does not resemble that described in the statutes. See *Affiliated Ute*

Citizens of State of Utah v. United States, 431 F.2d 1349 (10th Cir. 1970).

28 U.S.C. § 1331 provides in part that District Courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of \$10,000 exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States. A federal question is presented only where the correct decision in a case depends upon the construction or interpretation of the Constitution, treaties or laws of the United States, or on the validity of a statute or treaty. Otherwise stated, to bring a case within a statute, a right or immunity created by the Constitution, treaties or laws of the United States must be an element, and an essential one, of the plaintiff's cause of action. The right or immunity must be such that it will be supported if the Constitution, treaties or laws of the United States are given one construction or interpretation, and defeated if they receive another. It is doubtful on the pleadings in this case whether there is any dispute between the parties as to the meaning of any provision of the Constitution or the laws or treaties of the United States. This is essential to federal question jurisdiction.

Paragraph 1 of plaintiff's complaint alleges that this action was brought specifically to prevent the detonation of a nuclear device termed CANNIKIN on Amchitka Island, Alaska, in accordance with the rights, title and interest of the plaintiffs. All other Constitutional questions sought to be raised are incidental to this purpose. Under these circumstances the case cannot be said to "arise" under the Constitution, laws or treaties of the United States. The fact that it may be necessary in the course of litigation to construe or apply provisions of the Constitution, laws or treaties of the United States is not sufficient to give application to 28 U.S.C. § 1331. See *Pierre v. Jordan*, 333 F.2d 951 (9th Cir. 1964); *Walker v. Bank of America*, 268 F.2d 16 (9th Cir. 1959); *Belstine v. City of San Diego*, 256 F.2d 421 (9th Cir. 1958); *Marshall v. Desert Properties Co.*, 103 F.2d 551 (9th Cir. 1939).

Plaintiff asserts jurisdiction under 28 U.S.C. § 1343 dealing with civil rights and elective franchise. However, no claim under the Civil Rights Act has been alleged or proved by plaintiff. See *Hoffman v. Holden*, 268 F.2d 280 (9th Cir. 1959).

This action was brought specifically to prevent the detonation of CANNIKIN on Amchitka Island: The Civil Rights Act contemplates that the prime objective of suits brought thereunder is to redress the deprivation of any right, privilege or immunity secured by the Constitution and laws of the United States. Where there is some other principal objective of the litigation, and the deprivation of Constitutional rights is asserted only as a means of achieving that objective, the subject matter is not cognizable under the Civil Rights Act, and District Court jurisdiction thereunder is lacking. See *Pierre v. Jordan*, *supra*.

28 U.S.C. § 1361 provides that the District Court shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff. Again, plaintiff fails to relate this assertion of jurisdiction to the facts and proof in the case.

Mandamus is an extraordinary remedial device that may issue only when the claim for relief is clear and certain, and the duty of the officer involved is ministerial, plainly defined, and preemptory. Plaintiff has not alleged or proved facts that would justify the granting of mandamus and the court is without jurisdiction under 28 U.S.C. § 1361.

In the memorandum of decision and order entered in this case on October 8, 1971, the court stated: "Accordingly, there is little in-

formation before the court as to the membership of the Aleut League, the class it purportedly represents, the location of the various members of the class from Amchitka Island, whether they have been notified and consented to this action and their being represented by plaintiff. The lack of this and other information makes it at least questionable as to who the proper parties are."

The court then and now has insufficient information to enable it to make a reasoned determination as to whether 1) a class exists, 2) the class is so numerous that joinder of all members is impracticable, 3) whether the claims or defense of the representative parties are typical of the claims or defenses of the class, 5) whether the representative parties will fairly and adequately protect the interests of the class, and 6) whether the party or parties opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

In plaintiff's post-hearing brief, it asserts that the Administrative Procedure Act requires that, in making the determinations necessary under the Act the "whole record" be reviewed. However, 5 U.S.C. § 706 provides in part that in making the determinations enumerated therein, the court shall review the whole record or those parts of it cited by a party. (Underlining supplied).

Plaintiff further asserts that although it is AEC's responsibility to obtain and set forth the opposing scientific views, citing 42 U.S.C. 4332, and, otherwise to file the whole record or at least that portion of the Administrative record which directly pertains to the proposal to detonate CANNIKIN, all elements of the record which have been filed to date are conclusions supporting the AEC decision. 42 U.S.C. § 4332 requires only that "prior to making any detailed statement, the responsible federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality, and to the public, as provided by Section 552 of Title 5, and shall accompany the proposal through the existing agency review processes." AEC has strictly complied with this requirement of the law.

Plaintiff further suggests that on the basis of press reports, the recent decision in *The Committee for Nuclear Responsibility, Inc., v. Seaborg*, No. 71-1732 (D.C. Cir. October 5, 1971); and *Mink v. Environmental Protection Agency*, No. 71-1708 (D.C. Cir. October 15, 1971), the court should enter an immediate order requiring the defendants to file the remaining portions of the record before the AEC, including those documents in issue in the *Mink* suit, which can be inspected *in camera*, and any and all other studies or reports of other Federal agencies relating to CANNIKIN.

In case No. 71-1732, *supra*, plaintiff commenced discovery proceedings in an attempt to establish the deficiency of the Environmental Impact Statement's treatment of potential dangers of the test. They were precluded from accomplishing this by the entry of summary judgment in favor of the defendant.

In case No. 71-1708, *supra*, suit was brought by 33 members of Congress under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to obtain several documents pertaining to CANNIKIN. The district court declined to compel disclosure of the requested documents on the ground that they were

exempted by the express provisions of FOIA. The circuit court directed that the documents be produced for *in camera* inspection by the district court and for such further proceedings as might then be indicated.

In the case before this court, the record does not reflect that plaintiff has initiated any discovery procedures. The record does not indicate that plaintiff has at any time requested and been refused documents available under the provisions of 5 U.S.C. § 552. Subsection (a) (3) of the Act provides:

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

Unless plaintiff takes steps to comply with the requirements of the foregoing Act, the court is without jurisdiction to consider the suggestions contained in its post-trial brief.

5 U.S.C. § 702 provides that a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.

42 U.S.C. § 2231 provides in pertinent part that the provisions of the Administrative Procedure Act shall apply to all agency action taken under this chapter, and the terms "agency" and "agency action" shall have the meaning specified in the Administrative Procedure Act.

In *Elv. v. Velde*, 321 F. Supp. 1088 (D. Va. 1971), the court held that the National Environmental Policy Act, 42 U.S.C. § 4321, 4331 *et seq.*, were relevant statutes within the meaning of 5 U.S.C. § 702 and that the plaintiff's interest came within those sought to be protected by the Act.¹

The court having considered the testimony of the witnesses called by the respective parties, all documents and exhibits

¹ The court notes the possibility that a different result might be reached on the record in the present case where, 1) the decision to use Amchitka Island as a site for high yield nuclear experiments and tests was requested by AEC and approved by the President in December of 1966 and preparations and planning for the CANNIKIN test were commenced in 1966, more than three years prior to January 1, 1970, the effective date of NEPA, and thereafter continued to the present date, and 2) the proof before the court establishes the CANNIKIN test will not significantly affect the quality of the human environment. See *Pennsylvania Environmental Council, Inc. v. Bartlett*, 315 F. Supp. 233 (D. Pa. 1970); *Investment Syndicate, Inc. v. Richmond*, 318 F. Supp. 1030 (D. Ore. 1970); *Brooks v. Volpe*, 319 F. Supp. 90 (D. Wash. 1970).

admitted in evidence, the briefs and arguments of counsel, and being fully advised in the premises, now makes and enters the following:

FINDINGS OF FACT

1. The National Environmental Policy Act is a relevant statute within the meaning of the Administrative Procedure Act.

2. The agency action to be reviewed by the court under 5 U.S.C.A. § 706(2) and 42 U.S.C. § 2231, is the decision by the AEC to conduct the detonation of the underground nuclear explosion code-named CANNIKIN on Amchitka Island, Alaska.

3. Executive Order 1733, issued by President Taft in 1913, which designated that part of the Aleutian Chain which includes Amchitka as a wildlife preserve, specifically provided that "The establishment of this reservation shall not interfere with the use of the Islands for . . . military . . . purposes."

4. The Atomic Energy Commission, hereinafter referred to as AEC, is an agency of the United States Government, created by Act of Congress, 60 Stat. 756, 42 U.S.C. § 2031, and is authorized by laws of the United States to conduct tests of and research into nuclear weapons.

5. 42 U.S.C.A. § 2121 entitled "Authority of Commission—Research and development; production of atomic weapons", provides:

"(a) The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy; and

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year."

6. On August 5, 1963, representatives of the United States, United Kingdom, and Union of Soviet Socialist Republics, signed a treaty prohibiting nuclear explosive tests in the atmosphere, outer space and under water, but permitted certain underground nuclear explosions. The United States Senate gave its advice and consent to the ratification of the Limited Test Ban Treaty on September 24, 1963.

7. Since 1963, the AEC has maintained an active underground nuclear testing program in southern Nevada. The primary purpose of the program is to test and evaluate nuclear weapons concepts as needed to meet the requirements of national security.

8. In October of 1965, Long Shot, a Department of Defense-sponsored underground nuclear test was carried out at Amchitka. Bioenvironmental surveys were done.

9. In June 1966, the Department of Defense requested the AEC to develop a warhead for a proposed antiballistic missile system.

10. In 1966, it appeared that the Department of Defense would soon ask the AEC to design a nuclear explosive of yields larger than could be safely tested at the existing Nevada test site, the limitations there being the ground motion and its effect on high-rise buildings in Las Vegas. The AEC's Nevada operations office and its contractor in the weapons laboratory (Los Alamos Scientific Laboratory, Lawrence Radiation Laboratory, and Sandia Laboratories) began to look for supplemental test sites. The basic criteria were that the sites have geology proper for the proposed tests and for containment of resulting radioactivity and that the sites be sufficiently remote to give reasonable assurance of safety.

11. For this reason, the AEC caused an extensive search to be conducted for a suitable site for high yield tests. Sites at Red Desert, Wyoming; Desert Valley, Nevada; San Augustine Plains, New Mexico; Kaiparowits Plateau, Utah, Fortification Range, Ne-

vada; Steens Mountain, Oregon; Hualapai Mountains, Arizona; Paradox Base, Utah-Colorado; White Sands, New Mexico; Davis Mountains, Texas; North Brooks Range, Alaska; Hawaiian Islands; Black Rock Desert, Nevada; Yuma-Tule Area, Arizona; San Juan Basin, New Mexico; Hycro Range, Nevada; Pancake Range, Nevada; Panamint Valley, California; Owyhee County, Idaho; Jemez Mountains, New Mexico; Delaware Basin, New Mexico; Amchitka, Alaska; Christmas Island (British); and Western Australia, were seriously studied and considered by AEC.

12. The sites recommended and the problems related thereto were:

Amchitka, uncertain geology, ecology, weather, cost.

Central Nevada, ground water, ground shock (Yield limitation).

North Brooks Range, uncertain geology, caribou, lichen, time, costs.

Christmas Island, foreign.

Western Australia, foreign.

13. Of the locations considered, it was found that the island of Amchitka best satisfied the requirements for the tests involved. It is not a large island, and is remote, situated about 1400 miles southwesterly along the Aleutian Chain from Anchorage. While there are small populated areas closer to Amchitka, in no instance are they so close that the nuclear test being planned would endanger people or create a hazard to structures. Amchitka Island is also accessible by sea and air at all times of the year.

14. The geologic properties of Amchitka Island were proper for deep hole drilling and containment of the underground experiments, and finally, both the cost of conducting tests at Amchitka and the time required to prepare and execute those tests would be much less than would be required for operations in the more remote northern slopes of the Brooks Range in Alaska. While the Amchitka climate is generally unpleasant, it is not severe. On the other hand, the climate at an alternative site on the northern Brooks Range is so extreme that necessary operations would have been exceedingly difficult and slow.

15. Before seeking Presidential approval to use Amchitka Island for the conduct of high yield tests, the AEC consulted various interested federal departments and agencies, including the Department of the Interior. Presidential authorization to proceed with an initial survey of Amchitka Island as a possible supplemental test site was received in August 1966. Planning for operations at Amchitka was also coordinated with the State of Alaska, initially in 1966, and subsequently as plans were developed.

16. After the completion and review of the 1966 study and survey, and after consulting with the Secretary of the Interior, AEC requested permission to use Amchitka Island to conduct the tests necessary to develop the Department of Defense proposed warhead. This authority from the President was received in December 1966.

17. Although preparations for the CANNIKIN test began in 1966, more than three years prior to January 1, 1970, the effective date of the National Environmental Act of 1969, environmental matters and factors were of major importance during the consideration of all phases in the planning and preparations for the contemplated test.

18. By January of 1967, work had commenced and people and equipment began arriving in Amchitka. Actual drilling work started by March 1967, even though the camps, roads and facilities were not then fully completed.

19. As a part of its preparation for the CANNIKIN test, the AEC conducted a calibration test of about one megaton, code-

named MILROW, on October 2, 1969, to collect data concerning the physical and biological effects of a high yield underground explosion upon the Amchitka environment, and to provide an experimental basis for prediction of CANNIKIN effects to supplement the theoretical predictions. The results of the MILROW test coincided closely with the predictions, and provided valuable information and evidence that the CANNIKIN test can be fired safely and without important impact on the environment.

20. CANNIKIN is the code-name used to designate a nuclear test of experiment planned to be conducted on Amchitka Island, Alaska in the fall of 1971. CANNIKIN entails the site preparation, detonation and monitoring of an explosive device approximately 6,000 feet beneath the surface of the island. CANNIKIN is the culmination of approximately four or five years of intensive preparation and planning by the AEC. The need for the CANNIKIN test is vital to the development of the United States weapons program.

21. The AEC is required under the Atomic Energy Act to take all necessary measures to protect the public health and safety in connection with all United States nuclear detonations. In meeting its responsibilities, it has conducted numerous studies and reviews to enable it reliably to predict the effects of nuclear detonations on the safety of persons and property. A detailed recitation of the deliberately repetitive review process developed by the AEC to insure safety in connection with nuclear operations is set forth in the publication entitled "Nuclear Discussions of Off-Site Safety Programs for Underground Nuclear Detonations" (NVO—40, REV. No. 2, May, 1969), which summarizes the extensive technical studies pertaining to effects of nuclear detonations on public health and safety.

22. Safety studies undertaken specifically in connection with AEC's operations associated with the development of the Spartan warhead were begun as early as 1966, and continued until the present day. These studies were conducted by the AEC with extensive participation from outside the AEC itself. Public hearings on the safety and environmental impact aspects of the CANNIKIN test were held in Juneau, Alaska on May 26, 1971, and in Anchorage, Alaska on May 28-29, 1971. The safety studies, as well as the predictions of the expected effects of the CANNIKIN test, are summarized in the CANNIKIN environmental statement, Defendants' Exhibit No. 2 and Defendants' Exhibit No. 3 through No. 16, all of which are available to the public.

23. The selection of Amchitka as the test site for underground nuclear testing in 1966 and all matters relating to the preparation and development of the site and testing program were widely publicized throughout Alaska, and those matters, as well as the fact that preparations were being made for a higher yield underground explosion on Amchitka Island, have been matters of common knowledge throughout Alaska, including the Aleutian Islands, for the past several years.

24. Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the AEC issued a draft environment statement on CANNIKIN on June 17, 1970. This statement was prepared and transmitted in accordance with the interim guidelines of the Council on Environmental Quality and implementing AEC regulations to appropriate federal agencies having jurisdiction by law or special expertise with respect to environmental impact, and to State and local agencies authorized to develop and enforce environmental standards. Notice of public availability of the statement was published in the *Federal Register* on June 20, 1970. Copies of the draft environment statement

on the CANNIKIN test were in 1970 sent to the Governor of the State of Alaska, Senator Mike Gravel, and to the Honorable Carl Moses, president of the Aleut Indian League, and to over 300 individual requesters. All comments received by the AEC on the draft statement were taken into consideration during the preparation of the final environmental statement on the draft. Comments submitted to the AEC by federal, State and local agencies were included in the final statement.

25. The final "Environment Statement—CANNIKIN" was submitted to the Council on Environmental Quality on June 23, 1971. Copies of the statement were also sent to all groups and individuals listed in Exhibit 17, among others, including the Joint Committee on Atomic Energy and the Appropriations Committee of both the Senate and House of Representatives. Copies of the transcript of the public hearings referred to in paragraph 22 were also sent to the Joint Committee on Atomic Energy, the Undersecretary's Committee of the National Security Council, and the Council on Environmental Quality, among others.

26. The Environmental Statement CANNIKIN, June 1971, contains a detailed statement of R. E. Hollingsworth, General Manager and responsible official of the United States Atomic Energy Commission, setting forth—

1. the environmental impact of the proposed action.

2. the adverse environmental effects which cannot be avoided should the proposal be implemented,

3. alternatives to the proposed action,

4. the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity,

5. any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented.

27. AEC has used all practicable means, and to the fullest extent possible, consistent with other essential considerations of national policy has fully and in good faith complied with the requirements of NEPA and the guidelines issued by the Council on Environmental Quality.

28. The AEC has acted and is acting within the scope of its authority. The final agency action or decision by AEC, now being challenged, was based on a consideration of all relevant factors and in accordance with the necessary procedural requirements. There has been no error of judgment on the part of AEC and its final decision is not arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.

29. The court finds that the final Environmental Statement CANNIKIN prepared and submitted by the AEC in June 1971, which forms a part of the record in this case, is sufficient in detail, adequate in scope of coverage, and satisfies the requirements of NEPA and the guidelines supplementing that Act issued by the Council on Environmental Quality. That AEC in preparing and planning for the CANNIKIN test, has complied with the provisions of NEPA and all relevant laws and treaties related thereto, and has not acted or threatened to act beyond the scope of its authority or in abuse of its discretion or to engage in any unauthorized or illegal actions.

From the foregoing facts, the court makes and enters the following:

CONCLUSION OF LAW

1. Plaintiff has failed to prove by a preponderance of the evidence the claims alleged in Courts 1, 3 and 4 of the complaint and the same should be dismissed.

2. The court has jurisdiction under 5 U.S.C. § 706(2) and 42 U.S.C. § 2231, to re-

view the final agency action taken by the AEC to conduct the detention of CANNIKIN on Amchitka Island, and to review the sufficiency of the final Environmental Statement—CANNIKIN, June 1971.

3. The AEC has at all times acted and is acting within the scope of its authority. The final agency action or decision by AEC, now being challenged, was based on a consideration of all relevant factors and in accordance with the necessary procedural requirements. There has been no error of judgment on the part of AEC and its final decision is not arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law.

4. The court finds that the final Environmental Statement—CANNIKIN, prepared and submitted by the AEC in June 1971, which forms a part of the record in this case, is sufficient in detail, adequate in scope of coverage, and satisfies the requirements of NEPA and the guidelines supplementing that Act issued by the Council on Environmental Quality. The AEC in preparing and planning for the CANNIKIN test, has complied with the provisions of NEPA and all relevant laws and treaties related thereto, and has not acted or threatened to act beyond the scope of its authority or in abuse of its discretion or to engage in any unauthorized or illegal actions.

5. Plaintiff has failed to prove by a preponderance of the evidence the allegations set forth in its second claim, and the same should be dismissed.

Let judgment be entered accordingly.

THE ECONOMIC FREEZE SHOULD APPLY TO GOVERNMENT, TOO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, during this session of Congress, I have found it necessary to vote against several important pieces of legislation, including appropriations bills, which contained worthy, even badly needed programs. In each case, the decision was not made lightly. I had to consider the consequences of not voting for a program which a sizable number of people favored.

Politically, I suppose, some of my votes may not be too helpful to my career. But in each case, I felt that there was one overriding consideration—the \$40 billion deficit which our Government will run this year. This huge deficit, more than any factor, will fuel the inflationary fires that today destroy the incomes of all Americans.

Wage and price controls are fine for their psychological effect. The controls can help to bring the economy back into line. But if the Government refuses to abide by the same guidelines it sets for labor and industry, the controls will have only a cosmetic effect and cannot halt inflation.

In my opinion, the economic freeze authorized by the Congress and announced by the President, should apply equally to the Federal Government—to Government salaries and especially to Government spending. With a \$40 billion deficit, it can only be said that the Government has ignored the freeze. If inflation continues, as I fear it will, the Federal Government will have only itself to blame.

Inflation is the cruelest tax of all—far

worse than any other imposed upon the people by their Government. Like all other taxes, it is imposed upon the people by their Government. And, as everyone knows, taxes have been going up.

Early in May, most Americans got in the mail a delightful notice from the county treasurer—telling them what they must pay in taxes because they are property owners. As Mr. Average American tore open the envelope, he probably had a slight sinking sensation. He knew before he read the notice what the answer would be—higher taxes.

If his taxes are like they are in Pike County, Ill., my home, he is paying about \$1 a day in property taxes alone. Most people pay over \$300 a year. Even those who do not own property still pay taxes indirectly through rent.

Mr. Average American is married and has two children. He is salaried, and makes a little more than \$9,500 a year—before taxes. Like you and me, he is burdened by a mind-boggling array of taxes.

He pays the Federal Government \$1,500 income and social security taxes.

In Illinois he pays \$125 in State income taxes.

He pays his local government \$300 in property taxes.

And this is only the beginning. He has a multitude of other taxes to pay: sales, excise, gasoline taxes, and taxes on manufacturers by the hundreds which are of course passed on to him in the prices of the things he buys. When he buys a new car, for instance, \$1 in every \$4 is for taxes.

Add them all up, and Mr. Average American pays an estimated \$3,000 yearly in taxes of all kinds. Think of it. That is \$11.50 each working day. Every morning when he rolls out of bed to go to work he faces the task of earning \$11.50 for government taxes before earning anything for himself and his family. He works nearly 2 hours 25 minutes each day just to meet this tax bill. Not many years ago, Henry Ford shocked the industrial world by announcing a minimum wage of \$5 a day. Now the tax bill alone gobbles over twice that amount.

His morning already off to a bad start, Mr. Average American picks up his morning paper and reads that the national debt is now \$407 billion, and that the temporary debt ceiling was just hoisted again for the 16th time since 1961—this time a record \$35 billion to \$430 billion. On top of all this, he is shocked to find out that even with taxes as high as they are, the Federal Government had an estimated deficit this past fiscal year of \$30 billion. This year, the deficit will be even higher—\$40 billion.

A little pencil work and Mr. Average American figures that his family's share of the national debt is \$7,400 and that not one penny of the \$11.50 a day he pays for taxes goes to pay the debt principal—just interest. The cost of handling the Federal debt has risen so high that the average American's family's share of the interest load alone is \$380 a year—more than \$1 a day for interest costs for the Federal debt.

By now the breakfast coffee is cold, and Mr. Average American has probably lost a lot of his zip for the day's work ahead. He shakes his head sadly, pulls his ear and moans, "We've got to do something about taxes. How can we stand any more? Where's it going to end?" His wife provides no satisfactory answer so he shuffles off to work.

By the time he has paid his Federal income taxes, his State taxes, his property taxes and has had a heart-to-heart talk with the tax assessor, he probably feels like the fellow who got through paying his income tax and immediately saw his lawyer to change his will.

He told the lawyer to state plainly in his will that he did not want a conventional funeral. He wanted to be cremated, and he wanted the undertaker to put the ashes in a box and send them to the Director of Internal Revenue with a note saying, "Now you have everything."

The Federal Government indeed taxes us heavily, but what is disturbing is the fact that each year the burden grows worse. I recently came across an old speech I gave in 1961, and noticed that the average Federal income tax collected that year came to \$535 per person. I called IRS to get the figure for 1971. I was shocked to learn that today—just 10 years later—the Federal tax alone has almost doubled. It is just over \$1,000. Do you believe most Americans think they are getting double their money's worth in government services over what they got 10 years ago?

Worse still is the increase in all taxes combined over the last 10 years. In that 1961 speech I reported that the average family man paid \$853 yearly for taxes—about one-third as much as today.

Mr. Average American is in a pretty tight spot, is he not, having to pay all these taxes?

Yet, the cruelest tax of all, the one tax that misses no one, the one that hits hardest the elderly, the poor, and those on fixed incomes—is inflation.

Inflation is an abstract term, hard to put your finger on and to understand. But everyone knows when prices go up for the things he buys. Put simply, at the present rate, inflation currently undermines the value of our dollar at an annual rate of about 4 percent a year—and this represents an improvement over the 6 percent rate of just a year ago. Today, the dollar is worth only 73 cents compared with 10 years ago. Compared with 30 years ago, the dollar today is worth a mere 34 cents. If, at the rate recently prevailing, inflation continues for the next 10 years, a dollar saved today will be worth only 57 cents in 1981.

What does all this mean?

It means eroding bank accounts.

It means an undermined life insurance policy that, when Mr. Average American needs it, it will have sharply declined in real worth.

It means that pension payments, so essential to his retirement will buy less and less.

On a world-wide level, it means foreign countries not buying American products as we price ourselves out of the market.

The trade deficit shows this is already happening.

Inflation has already had a tremendous effect on our lives. If you were making \$3,000 in 1940, to have the same buying power today, you must now make about \$10,000.

In 1940 a man read an ad in a newspaper. It showed a happy couple under the palm trees, and the caption read, "How you can retire in 15 years on \$150 a month."

All he had to do was buy an insurance program, and the insurance company would guarantee him and his wife a lifetime income of \$150 a month.

So he bought the insurance. Ten years later, leafing through a newspaper, he saw an almost identical ad by the same company, but this time it read, "How you can retire in 15 years on \$200 a month."

Fifteen years after he bought the insurance program, the year he was supposed to be able to retire comfortably under the palm trees for the rest of his life, he read another ad by the same company. The happy couple and the palm trees were the same, but the caption now read, "How you can retire on \$300 a month in 15 years."

Can Mr. Average American today confidently buy a retirement program assured that it will be adequate when he retires? All he can do is buy the best he can afford with today's dollars, and hope that the inflated annuity dollars that come later will still be big enough to keep him going.

With a dollar that is shrinking steadily every year, how can he set up an adequate estate for his family? How can he go about funding his child's education? How about pensioners? Old folks on fixed incomes? What happens to institutions with fixed endowment income?

A friend and businessman in Pittsfield, Ill., I have known and respected for 25 years wrote me this in May:

I am concerned with increased debt, increased taxes, and the road we are traveling without taxpayers' consent. Let's start with the poor guy in the 19 percent income tax bracket. He needs a dollar for food. How much must he earn to buy that food?

He then gave me figures to show that the man must earn \$1.42 just to buy a dollar's worth of food.

What has happened is that the man who plans for his family's future by saving during his productive years, often finds later that he is no better off than those who do not provide for their own future. The man who saves for his child's education may find the dollars he saved when the boy was growing up are just not enough to pay for the young man's college tuition. The money he has set aside for retirement may not be enough to allow him to quit work and retire when that day comes.

Inflation does more than undermine the value of the dollar. It also undermines the confidence of people in their society and their Government. It undermines their will to work and build for the future. When the man who saves for the future is no better off than the man who does not, inflation destroys the

whole fabric of society and the very moral foundations of our country. That, truly, is the worst cost of inflation.

Wages and prices in their traditional battle to outdo each other, have skyrocketed. Recent wage settlements in steel, railroads and other major industries have provided increases of 10 percent a year over the next 3 years. Inflation is locked in. Inflation is not a joke, it is not a tiny increase each year, a healthy sign of national growth. Today it has such momentum that it threatens to wreck our entire economic structure. For when people begin to expect inflation, they build it into their long-term contracts, and thus help assure more of the very thing they wish to avoid.

And what about our Mr. Average American? Facing these depressing facts, he can find consolation in only one hope, and that is, maybe the worst is over, maybe prices will stabilize where they are.

But, look at these danger signals:

First. Despite the economic freeze and the establishment of the Wage and Price Review Boards, inflationary wage and price increases continue. Although the upper limit for raises is 5.5 percent, the first increase approved by the Wage Board was 15 percent for the coal industry—almost three times higher than the guideline. The record of the Price Commission has been similarly dismal. In the face of a 2.5 percent guideline for price increases, the Commission has approved increases as high as 4.93 percent—almost twice the permissible level. Wage and price controls so far seem to have been ignored more than they have been followed—even by the boards set up by the Government to administer them.

Second. The world monetary and trade crisis is still critical, despite all of the efforts of President Nixon and Treasury Secretary Connally. The quarter just reported has shown the worst balance-of-payments deficit in U.S. history. This year we will have a trade deficit for the first time since 1893. Trade barriers with Common Market nations have suddenly sprung up.

Nations with which we have a net balance of trade surplus complain that the 10-percent surcharge is unfair.

Worse still, our inflated dollar is becoming so overvalued in relation to other currencies that many of our friends are insisting that it be devalued.

Third. Worst of all, however, is the dangerous course the Federal Government has taken in recent years—spending far more money than it receives in taxes. More than any other factor, Government deficit spending has caused inflation.

This policy has caused the national debt to surge \$120 billion in the last 10 years. The interest alone Uncle Sam must pay on this debt is \$19 billion. That amounts to \$1½ billion a month, or \$40,000 every minute of every day. No wonder your share of it is so high. In fact, the interest on the national debt is the largest item in the Federal budget except for defense.

Is the situation hopeless? Is runaway inflation a certainty?

Of course not. We have the means to

control it. We need only the will to employ them.

Price and wage disciplines are necessary. But the discipline most needed and most lacking is fiscal—Government spending policy. If we are to be successful, we must adopt a responsible Federal fiscal policy.

To control inflation we must live within our budget as a nation, and pay our bills out of current income. Keynesian economic theory—spending more than the government takes in in taxes—may make sense to theorists; but it certainly does not make political sense. Even Lord Keynes always maintained that each budget deficit must be offset with a budget surplus of equal amount in a subsequent year. But no President or Congress has been willing to produce the offsetting surpluses because of the political consequences of cutting Government spending.

We must have a stable economic foundation upon which to build a secure future. To achieve that stability will require some hard decisions. Some worthy projects will have to be delayed. It is this factor, and no other, which has caused me to vote against appropriating millions of extra dollars for some Federal programs.

But the signs all indicate it is unlikely that Government will do anything about inflation unless there is a relentless demand from the people for action. This demand must come from more than just the fringes. It must well up from the great American heartland, the middle class, the small cities and towns, from suburbia, from farmers and bankers, from small businessmen. It must ring loud and clear, and not let up until steps are taken to stop inflation.

Unfortunately, 90 percent of the letters I get ask for more Government spending, not less.

AN INCIDENT OF ENVIRONMENTAL REJECTION UNDER THE GUISE OF ENVIRONMENTAL PROTECTION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New Jersey (Mr. SANDMAN) is recognized for 15 minutes.

Mr. SANDMAN. Mr. Speaker, I consider it my duty to bring an extremely disturbing report into the Chamber today concerning an incident of environmental rejection under the guise of environmental protection.

It is an example of how the legitimate concern we all have for the quality of our environment can be exaggerated into an instrument of awesome power and backward public policy.

And I fear, Mr. Speaker, that this incident that occurred in my State of New Jersey on Wednesday is the first volley of what may become an all-out war on private property rights that could bring even the most orderly and environmentally sound developments around the Nation to a screeching halt.

Because I know these remarks will otherwise be misunderstood, I must point out for the record that I take a back

seat to nobody in terms of my long personal and legislative record at both the State and Federal levels to restore and protect the quality of our environment.

At both levels of government, I have been recognized as a leader in the fight against pollution and for the orderly and ecologically sound development of our land. No Member of Congress has devoted more time in this fight than have I—even before it became fashionable. My efforts to end ocean dumping are widely known. All of the Green Acres referendums to preserve open spaces in New Jersey have had my support.

The Garden State's valuable wetlands must be protected and I have been among the leading advocates of that. In fact, one third of Cape May County, N.J., where the Anglesea project is located, is wetlands, generally referred to as the Great Meadows. The irony of it all is that the project's site occupies about five acres that would be marina area. On the opposite side of the highway is the Great Meadows comprising untold thousands of acres that is properly planned to remain in its virgin state. The city of North Wildwood, in which municipal bounds the project is located, has rigidly zoned this area for marine use. The city, because of its abnormally high cost of beach erosion protection, needs the additional \$10 million of ratables involved in this project. The mayor, the council, and as far as I know, every resident in the city of North Wildwood favors this project.

We do not preserve anything when we allow a polluted stream to remain polluted. There is nothing beautiful or natural about it. To the contrary, good conservation practices include dredging in some cases to reopen up a free flow of water.

And, Mr. Speaker, we gain nothing by "leaving in its natural state" a rat-infested former city dump when private interests who own the property are willing to transform it into a beautiful marina.

New Jersey is one of those states that has gone off the deep end in some of its efforts to protect the environment. Some of the actions taken by the State have been positive and have my full support. But many other decisions and actions have not only been ill-advised, but they have been detrimental to the planned and healthy growth of a great State.

The chief executive of the State has declared a statewide moratorium against dredging. Many areas of that State should not be dredged—the great meadowlands should certainly be preserved in their natural state, cleaned up if necessary.

But how in heaven's name can it be wise in any practical sense to inflict upon an entire coastal State such a moratorium against the improvement of all lands by hydraulic dredging. It can not be.

And while such a moratorium on dredging along all 200 miles of New Jersey coastline is in effect, the Governor unveils his own scheme to convert the Hackensack meadows into the sports palace of the East.

That plan to develop the Hackensack meadows will require an exemption from the moratorium on dredging. Correspondingly, where dredging can make an improvement, other exemptions must be granted providing dredging to be done would not have any adverse effects on the surrounding environment.

In my district, Mr. Speaker, there is a terrible eyesore, commonly known as the North Wildwood city dump. It is adjacent to a lovely development where similar land was converted into beautiful houses, a shopping center, and a motel-restaurant complex, all carefully planned with all environmental considerations in mind and all overlooking the Hereford Inlet from the Atlantic Ocean. This development, known as Anglesea Beach Colony, is across the road from the world-famous Zaberers' Anglesea Inn.

The Anglesea Beach Colony Co. has already invested some \$5 million into beautiful improvements on the adjacent land. This has not only beautified the area, but it has restored the land, provided homes, recreational entertainment, and convenient shopping facilities, thereby improving the economy of the entire area.

The Anglesea Beach Development Co., in May of 1971, applied for a permit from the New Jersey Natural Resources Council and produced evidence of a \$10 million mortgage supporting a \$10 million plan of additional construction. This would supply more than 200 winter jobs in Cape May County, where the unemployment rate reaches 16 percent seasonally, highest in the State of New Jersey.

After waiting for more than 3 months for action by the State, the company contacted me to try to help expedite a decision so that constituents who needed those 200 new jobs and hundreds of others involved in various supply and service businesses could go to work.

The plan would have transformed the ugliest part of the dump into a beautiful new marina. What was to be dredged to make the marina would not have been wetland, but merely debris from the landfill. And this substance was to be deposited on the other dry land to build it up as underfooting for the buildings to make them safe against flooding, as required by flood insurance regulations. The entire cut was to be bulkheaded and protected all of the way around. No possible sewerage problem existed because city sewerage is available. In fact, the treatment plant is close by.

In midsummer, the Federal agency involved, the Environmental Protection Agency, issued its prompt and favorable recommendation that a permit be issued for the project "with the stipulation that the dredged areas be extended to and made part of existing waters of the same or greater depths."

Continuing to flounder about on the matter through numerous monthly meetings and despite pleas from me and many others to act with dispatch, the council finally flatly rejected the entire project on Wednesday, December 8, as being detrimental to the environment.

Incredible as it is, Mr. Speaker, to this moment, not a single shred of proof or justification for the charge of any adverse environmental effects of this proposal has been presented. Not a shred.

In fact, for the third time, I traveled all the way to Trenton from the Capitol Wednesday in anticipation of some sort of decision. That final decision was voted upon Wednesday—the result was a 4-to-4 tie with only eight of the 12 council members present.

Mr. Speaker, not only is this a severe blow to the Anglesea Beach Colony, the city of North Wildwood, Cape May County, and to the thousands of tourists who would enjoy the new facilities at Anglesea every summer, it is a severe blow to the economy of my district.

Furthermore, and perhaps as important on the overall picture, yesterday's incident in New Jersey is a crushing setback to the credibility and rationality of those in whom we place trust to protect our environment. This agency is entrusted with the highest authority, not only in the issuance of permits such as referred to in the Anglesea case, but it is also entrusted with the handling of riparian rights and riparian grants and other such interests as the State may have in the tidal lands throughout the State. Some of the members of this board are fully qualified for such authority. Unfortunately, others on this board are not. Consequently, in a State that has a population of 7½ million people, this board can arbitrarily stop, as it has done in the Anglesea case, billions of dollars worth of promotion and development. The New Jersey board meets only once a month. On more than half the occasions between May and December of this year, it failed to have a quorum to conduct business. It has a backlog of similar matters that, for the most part, have been untouched throughout the calendar year.

Mr. Speaker, it is time the Nation recognized that we can go overboard on any effort, just as New Jersey's council has unquestionably done on the Anglesea Beach Colony case.

To be critical of anything done in the name of the environment these days, whether right or wrong, is tantamount to heresy or even treason in the eyes of some. And it is supposed to be suicide for a politician.

But I am being critical of Wednesday's decision in Trenton. And though it may be too much to expect, I think responsible environmentalist groups and leaders should investigate this matter and join me in condemning the decision because it casts doubt on the credibility of the entire cause.

I have written a formal letter of protest in strongest possible terms to New Jersey Commissioner of Environmental Protection Richard J. Sullivan, the full text of which I ask be reproduced in full in the CONGRESSIONAL RECORD.

And finally, Mr. Speaker, I am urging all public officials at all levels of government to be alert against the possibility that for whatever reason they may have, a group of perhaps well intentioned persons might gain a foothold of such awe-

some power elsewhere and be legally able, in the name of protecting the environment, to bring progress of society to a standstill.

As demonstrated so cruelly in this Anglesea case in New Jersey, it is possible.

My formal letter of protest follows:

WASHINGTON, D.C.,
December 10, 1971.

HON. RICHARD J. SULLIVAN,
Commissioner, Department of Environmental
Protection, Trenton, N.J.

DEAR COMMISSIONER SULLIVAN: Enclosed herewith is a copy of an address I delivered on the Floor of the U.S. Congress today on a subject of an extremely serious nature—so serious in fact that I am alerting the entire Nation so that others might act now to prevent such an incident from ever happening in their States.

I take a back seat to nobody, anywhere in this Country, in terms of my long record of personal and legislative efforts to restore and forever protect the quality of our environment. I have fought this fight long before it was fashionable.

However, I must protest in strongest possible terms the four to four vote decision reached yesterday by New Jersey's "Natural Resource Council" in the case of the Anglesea Beach Colony in North Wildwood, N.J.

The Council's denial of Anglesea Beach Colony's development application is the most flagrant example of exaggerated harassment in the name of environmental protection that I have ever seen or heard of.

This unconscionable action vetoes the Colony's well-planned and environmentally careful \$10 million transformation of an ugly, vermin-infested city dump into a beautiful place where people could live in harmony with nature.

Of course, I am extremely disappointed with the Council's unreasonable decision on the Anglesea Beach Colony case, but even more distressing is the prospect of similar decisions in the future by a Council that has assumed such awesome power.

As the person accountable for the actions of this Council, you are beseeched to take immediate and appropriate action not only to reverse the Anglesea Beach Colony decision but to prevent such unwarranted action from ever occurring again.

I want you to know that the facts of this matter are being sent to the Governors, Attorneys General, Legislative leaders and environmental officials and agencies of all 50 States plus Federal lawmakers and others to serve as an example of the danger of backward public policy.

I am reminded of the motto of one of the Nation's most constructive environmental organizations—the Sierra Club. You should paint it in foot-high letters on your Council's wall: "Not blindly against progress, but against blind progress."

Very truly yours,

CHARLES W. SANDMAN, Jr.,
Member of Congress.

LEGISLATION TO EXCLUDE PERSONNEL RECORDS OF DISTRICT OF COLUMBIA POLICE FROM PUBLIC RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 10 minutes.

Mr. HOGAN. Mr. Speaker, I am today introducing legislation to exclude the personnel records of officers and members of the Metropolitan Police Department of the District of Columbia from public records.

In recent months the need for this

legislation has become clear. I can recall at least four different occasions when the home address of a police officer has been reported in the press following an arrest or police slaying.

I would ask the question, what purpose does the publication of the police officer's home address really serve insofar as the news story is concerned?

Further, the numerous slayings of policemen around the country, as well as in the Nation's Capital, are enough of a problem with which to cope without subjecting the lives of the policeman's family to danger as well.

This information leak cannot be attributed to the Metropolitan Police Department as Police Chief Jerry Wilson has issued orders that no officer's address is to be released. Further, he has established an agreement with area newspapers by which an officer's address will not be printed.

Obviously, there are loopholes in this procedure otherwise we would not be reading the addresses of police officers and their families in news stories.

One such loophole is the existence of title 4, section 135, paragraph (3) of the District of Columbia Code which includes police personnel records in those records which are designated to be open to the public. This provides any interested party an open door for access to this information.

The bill which I am introducing today would strike police personnel records from this provision of the District of Columbia Code.

Two recent incidents spell out dramatically the problems which result from the publication of these home addresses.

Just this past weekend we read of the incident on South Capitol Street, leading into my congressional district, in which two off-duty District of Columbia policemen became involved with occupants of another automobile who opened fire on the two policemen. One of the officers was wounded by the gunmen and then dragged to his death by their automobile.

In reporting the incident, the news stories included the address of the dead policeman's nearest relatives in this area. I am told that during the course of the weekend the family was so harassed by the press that they would have moved from their home had they been able to.

The harassment is magnified one hundredfold when an arrested individual or his friends and relatives attempt to intimidate the officer's family.

Such might have been the case as the result of an incident which occurred last April 9. On that day, a Metropolitan Police officer answered a false policeman in trouble call and became the target of a premeditated ambush by two youths whom he and another officer had arrested the previous week. The police officer was able to escape the assassination attempt with minor wounds.

While he lay in the hospital under protective guard, the police officer's home address was printed in an account of the attack in one of the major Washington dailies. In this case, particularly, such a publication might have resulted in further tragedy. Is it not likely that those who set the original ambush for this of-

ficer might attempt to levy their wrath on the innocent family members of the attacked officer?

Disaster, however, was averted in that the address released was one from which the officer's family had very recently moved. Had it been correct, however, the ending might have been tragically different.

The two assailants in this case had coldly planned the officer's death, and certainly were not beyond attacking this family when their initial plan failed. The assailants remained at large for 4 days—days which were immeasurably fear-laden for the members of that police officer's family.

I am hopeful, Mr. Speaker, that committee action on this bill can be taken with dispatch. It is an urgent, life-or-death, matter for the police officers and their families in the Washington metropolitan area.

Finally, Mr. Speaker, I am also preparing legislation to amend the Freedom of Information Act, Public Law 85-619, to afford the same kind of protection to Federal law enforcement officers.

I include my bill to remedy the District of Columbia situation in the RECORD at this point.

H.R. 12191

A bill to exclude the personnel records of officers and members of the Metropolitan Police Department of the District of Columbia from public records

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 389 of the Revised Statutes, relating to the District of Columbia (D.C. Code, sec. 4-135), is amended by striking out "(3)."

FOOTBALL AND TV BLACKOUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the growth of professional football in the last decade has led to unprecedented job opportunities, expanded fringe benefits, and a steady rise in salaries for the more than 1,400 players of the National Football League, with millions of fans enjoying the games at home and on television.

This did not come about by accident, and I have always felt that one of the great attractions of professional football is the tremendous identification that fans at the games have with football and which not only comes across in the stadiums but comes across to the millions of viewers who watch on television. I do not ever want professional football to become just a TV sport as has happened to other sports.

No phase of National Football League operations appears to be more misunderstood than the league's so-called blackout practice. Much of the current comment suggests that it is misunderstood both as a legal proposition and as a matter of business practice. The practice is nothing more than the practice of not televising locally the same games being played locally.

I would like to include in the RECORD at this point for the attention of my fellow Members of Congress the position

of the National Football League with regard to this practice. As former president of the American Football League Players Association for 5 years and cofounder of the association, I always felt that there was great need for better communication between management and the players. Not only is that important but there is an even greater need for communication with Members of Congress and the public at large.

To that end, Mr. Speaker, I think this paper will be very helpful in laying to rest some of the myths about TV blackouts, this little-understood but extremely vital aspect of professional football's operation.

The article follows:

TV "BLACKOUTS" AND THE NATIONAL FOOTBALL LEAGUE

The Legalities. Although statements to the contrary are common, the blackout practice did not originate with the 1961 Congressional Act (Public Law 87-331). Nor did it acquire its legal justification under that Act. The practice has been followed by the member clubs of the League since the earliest days of television.

During the 1940's and 1950's, each NFL member club individually negotiated its own television arrangements with television interests. In 1950, one member club, acting under a guarantee of gate attendance by a TV sponsor, undertook to telecast its home games within its home territory. The decline in the club's stadium attendance (despite a championship season) was so marked that the sponsor bore a severe financial penalty. No NFL club has followed the practice of televising its home games into its home territory since.

No known principle of law requires them to do otherwise. The two clubs participating in a local football game have no more obligation to make their own entertainment event available on free home television in the area where the game is being played than do the producers of any other form of entertainment. The producers of motion pictures do not; those responsible for performances at the Kennedy Center, at the Washington Coliseum, and at the National Theater do not. The practice is wholly without antitrust implications, since it has nothing to do with competition among the member clubs of the League.

In 1951, the Department of Justice instigated a thorough court review of the NFL's television practices (see *U.S. v. N.F.L., et al.*, 116 F. Supp. 319 (1953)). Throughout this litigation, neither the Court nor the Department of Justice ever questioned the right of the member clubs of the NFL not to offer locally the same NFL games being played

locally.¹ Indeed the Court's decree specifically provided that the clubs participating in any game could agree "that such game shall or shall not be broadcast or telecast" and on "the terms and conditions under which the rights to broadcast or telecast such games shall be sold."

In 1961, Congress enacted Public Law 87-331. This legislation was in no way directed at any phase of the National Football League's traditional "blackout" policy. The legislation had been requested by the League because it felt that team balance within the League required that each member club have equal access to television facilities and derive approximately equal revenue from television. Legislation was required for the simple reason that the earlier Court decree assumed that the NFL member clubs would continue to sell their television rights individually.² In enacting Public Law 87-331, Congress wanted to insure that the new joint sale authority granted to the NFL was not employed by the NFL member clubs to bring about a general reduction in their home TV programming or the transferral of their games from standard broadcast facilities to pay-TV facilities. Congress therefore added the present Section 2 of the 1961 Act. That section was intended to do nothing more than to restate the League's already established blackout rights and to confirm the member clubs' traditional practice.

Some five years after the enactment of this legislation, the NFL member clubs agreed voluntarily to waive their legally established rights with respect to outside game telecasts being brought into another member club's home territory when the home team was playing at home. The clubs recognized that this "modified lift" policy would have some impact on gate attendance among the weaker teams of the League. It was felt, however, that the popularity of NFL football had risen to a level where a partial relaxation of the NFL's former "blackout" policy was feasible and that home territory fans of professional football, including those who could not obtain access to tickets for the games of their home team, should be given the privilege of viewing other NFL games on Sunday. Accordingly, under the League's present practice, home territory fans today regularly have access to two other NFL telecasts when a home team is playing its game at home and to three NFL telecasts when the home team is playing away and bringing its own home game back on television into its home territory.

The "issue" therefore is not a "blackout" issue at all. The issue is simply *which* NFL game is to be televised in *which* area on what occasions. For Congress to intervene to tell the producer of a form of television entertainment when and how its programming is to be present would, to say the least, be unprecedented.

The Business Aspects of the Practice. The practice is neither arbitrary nor the product of greed. It derives from the conviction, shared by all member clubs, that television is a useful adjunct to stadium attendance but that it should not be permitted to become a substitute. The heart of professional football still rests with fans at the stadium. Professional football is determined not to follow the path of professional boxing—with contests being staged in small and half-empty arenas before vast television audiences.

Generalities about percentages of League-wide stadium capacity on any particular Sunday have no practical significance. Only a handful of NFL clubs are assured of sta-

dium sellouts in advance of the season.³ Most do so only rarely or do so only with respect to particular games. Many clubs achieve sellouts on an individual game basis only at the last minute through ticket sales occurring right up to the moment of kick-off. Others offer last-minute standing room where conditions permit and the demand is exceptional.

If any NFL club were to televise its home games locally, it would have to do so on the basis of a pre-determined and publicly announced policy. Good faith with its ticket-buying fans requires this. It would be the height of bad faith to solicit ticket sales and thereafter announce to the public that the game would be offered on free home TV.

If a team announced in advance a policy of televising its home games locally whenever a sellout had been achieved, the effect on ticket sales would be wholly unpredictable. Holdbacks on ticket purchases would be the order of the day, as fans attempted to predict sellout possibilities, team standing, and even weather conditions on a seasonal basis or on a game-by-game basis. Season tickets would be sharply reduced in value, as every fan would know in advance of the season that he would either be able to obtain tickets to each game on a last-minute basis or be able to view the game in the comfort of his own home.

Few clubs would want to experiment with the dramatic impact that guessing games of this character could have on gate attendance. Nor would knowledgeable stadium authorities, almost all of whom have their rental income based on a percentage of gate receipts.

The suggestion that local telecasts of home games would actually benefit the member clubs financially is a rather remarkable one. It proceeds on the assumption that the member clubs either do not understand their own business or that they are, for no rational reason, stubbornly resisting the opportunity to advance their own financial interests.

But the opposition of the member clubs to local telecasts of their home games is not limited to the potential effect on ticket sales. It is also based on the clubs' desire to preserve professional football principally as a stadium spectator sport. The clubs do not want adverse weather conditions or poor standing of the local team during the latter part of the season to result in home games being played in half-empty stadiums even where sellouts have been achieved. How many Redskins fans might have made last-minute decision not to attend the Redskins home opener with the Houston Oilers (played during and after twelve hours of steady rain) if the game had been available on local home television? Can any opponent of the League's present policy actually say? And what of the circumstances in other League cities offering a less dramatic return of the home club to its home city?

Lastly—a factor quite ignored by those pressing for mandatory home telecasts of home games—any enforced revision of the NFL's present practices would totally disrupt all phases of professional football's television planning and programming. Indeed it would be questionable whether the League could rationally conduct contract negotiations with any network on such a basis.

³ It is an error to assume that ticket sale conditions in Washington, D.C. are characteristic of the League at large. In most NFL cities, ticket sales increase or decrease from game to game and from season to season based on the anticipated performance of the home team, the drawing power of the visiting team, weather conditions, or other local factors. In 1970, for example, sellouts were not even achieved for all the divisional play-off games (played in home towns of one of the participating teams). One NFL Super Bowl game was not even sold out—largely because of speculation as to the possibility of a local telecast of the game.

¹ As might be expected, the Court and the Department were concerned solely with anti-competitive agreements among the member clubs. The Court and the Department directed their attention solely to agreements among the member clubs not to telecast outside games into another member club's home territory (a) when the home team was playing a game at home, and (b) when the home team was playing away but bringing its own game back on local television into its home territory. On these issues, the Court concluded that the first prohibition was entirely reasonable because of the potential impact that outside game telecasts might have on the home team's gate attendance but that the prohibition against outside games being brought into a member club's home territory when it was not playing a game at home was unreasonable, since the effect of such prohibition was simply to limit home territory television competition among the member clubs of the League.

² At that time, other sports leagues, including the then American Football League, the National Hockey League, and the National Collegiate Athletic Association, were already selling the television rights of their members jointly to networks.

With the expansion of the NFL to 26 teams, it no longer became feasible for the NFL clubs to limit their Sunday afternoon games to the broadcast facilities of one network. Moreover the use of a single network would have sharply curtailed the volume of professional football home telecasts previously offered to the public. Accordingly, the League now makes use of two networks on each Sunday during the NFL regular season with one network telecasting the games of the teams in the National Conference and the other network telecasting the games of the teams in the American Conference.

As an illustration, when the Redskins are playing at home, a local NBC affiliate regularly offers a directly competitive American Conference game on television and a second nationwide telecast of another NFL game usually follows (on either CBS or NBC depending on the West Coast home game schedules, time differences, and other factors). Each network also has the obligation to carry each road game of each of its own Conference teams back to the home city of the away team on a regional basis, regardless of time factors or other conflicts.

If both networks had the obligation to vary these patterns on the basis of last-minute ticket sale factors, total confusion would be produced among the networks, their local broadcasting affiliates, their network and station advertisers, and the corporation supplying the network cable facilities. Even the local TV listings would be unreliable guides. An additional game telecast would be injected into each home territory broadcast picture on the basis of factors wholly unrelated to television. This enforced third telecast would be carried on a different network and on a different broadcasting station in substitution for or in direct conflict with other game telecasts already scheduled. No television sponsor, no network, and no local broadcasting station would know in advance what cable facilities were required, what broadcast time could be offered for sale to sponsors, what the television competition for such broadcast would be, or what market coverage or audience ratings could be anticipated. Reproduction of these circumstances in twelve of the country's major metropolitan TV markets on each Sunday would transform the purchase and sale of NFL television time into an exercise in speculation.

These are among the many reasons why the NFL's present practice—which is not a "blackout" practice at all—is entirely reasonable. Even outsiders with knowledge of the facts have come to accept the full propriety of this NFL member club policy.

THE FUROR OVER PRESIDENT NIXON'S VETO OF THE EXTENSION OF THE ECONOMIC OPPORTUNITY ACT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the furor that has begun over President Nixon's veto of the extension of the Economic Opportunity Act gives us some indication of the priorities for the President's critics. It appears their priorities will not be good legislation based on principles well thought out in committee hearings and fully debated. Rather, the 1972 Democratic hopefuls seem to want headline-oriented bills written to win the support of powerful pressure groups—regardless of the ultimate effect on the average taxpayer.

As a supporter of both the concepts of legal services to the poor and child care, I applaud the President's courage in vetoing the poverty bill extension. I

could not bring myself to support the bill that passed the House because I feel that it could not do successfully what it promised to do. And if our Nation has learned anything from recent Democratic administrations, it is that we should not promise what we cannot deliver—or would deliver so poorly that it sets the stage for wasteful scandal.

It might have been politically expedient for President Nixon to embrace this bill, laud the pressure groups that pushed it through, and herald a new day for America. After all, next year is an election year—and this program wouldn't really be rolling until after that election. But what about after that?

Instead, the President looked at this bill closely and found provisions that no responsible administration could countenance. The child care provisions should never have been included in a "poverty" program in the first place. Those provisions are aimed at plowing new ground in the education and medical care of all the Nation's youth and should have been subject to the most exhaustive study before implementation. Potentially, this vetoed bill would have set up 40,000 new offices around the nation to run a new kind of sophisticated day-care center—but the coordination would have been from Washington—not locally or at the State level. To thus ignore existing local structures in education, health, and so forth, in setting up a new \$2 billion program is no way to treat 54 million younger citizens.

President Nixon has expressed his support for improving the health and education of our Nation's preschool youth. But he was clearly right to insist that it be done through decent legislation that would provide for sound administration. It now remains to be seen whether the Congress will rise to his challenge.

NATCHER—NATURALLY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Mississippi (Mr. GRIFFIN) is recognized for 5 minutes.

Mr. GRIFFIN. Mr. Speaker, the records of the Clerk of the House of Representatives disclose that Representative WILLIAM H. NATCHER has a perfect voting record.

Representative NATCHER was sworn in as a Member of Congress on January 6, 1954, and has never missed a rollcall vote since he has been a Member of the House of Representatives. During this 18-year period thousands of rollcalls have been held. A perfect voting record, Mr. Speaker, of course, is not the sole test of a good Representative, but clearly indicates that our friend, BILL NATCHER, believes that we should all stand up and be counted on each issue.

On July 16, 1963, Ralph R. Roberts, then the Clerk of the U.S. House of Representatives, directed the following letter to Representative NATCHER:

JULY 16, 1963.

HON. WILLIAM H. NATCHER,
House of Representatives,
Washington, D.C.

DEAR MR. NATCHER: After a careful check of your voting record from the day that you were sworn in on January 6, 1954 to the present date, I hereby certify that you have never missed a Yea and Nay vote on legisla-

tion from the 83rd Congress 2nd Session through July 16, 1963 of the 88th Congress as follows:

83rd Congress 2nd session, 76 yea and nay votes.

84th Congress 1st session, 76 yea and nay votes.

84th Congress 1st session, 76 yea and nay votes.

85th Congress 1st session, 100 yea and nay votes.

86th Congress 2nd session, 93 yea and nay votes.

86th Congress 1st session, 87 yea and nay votes.

86th Congress 2nd session, 93 yea and nay votes.

87th Congress 1st session, 116 yea and nay votes.

87th Congress 2nd session, 124 yea and nay votes.

88th Congress to 7-16-63, 43 yea and nay votes.

Total, 891 yea and nay votes.

The above shows that you have a perfect Voting Record on Legislation. I know of no other Member who has a comparable record.

Sincerely yours,

RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

The letter directed to Representative NATCHER from the Clerk of the House, Ralph R. Roberts, includes that period from January 6, 1954, to July 16, 1963. Since that time the Clerk of the House has, at the close of each session of Congress, directed a letter to Representative NATCHER indicating that he has answered every rollcall vote. The last letter was received from W. Pat Jennings, Clerk of the U.S. House of Representatives, dated January 7, 1971, and is as follows:

JANUARY 7, 1971.

HON. WILLIAM H. NATCHER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN NATCHER: After a careful check of your voting record, I hereby certify that you were present and voting for all roll calls and were present for all quorum calls during the Second Session of the Ninety-first Congress.

With kind regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, U.S. House of Representatives.

During the first session of the 92d Congress, which is now coming to a close, BILL NATCHER has not missed a vote.

Mr. Speaker, as you know, Representative NATCHER is a member of the Committee on Appropriations, serving as chairman of the District of Columbia Budget Subcommittee; No. 2 on the subcommittee that appropriates the money for the Department of Labor and the Department of Health, Education, and Welfare, and No. 2 on the subcommittee that appropriates the money for the Department of Agriculture—Environmental and Consumer Protection.

Mr. Speaker, I commend my friend, BILL NATCHER, on this outstanding and excellent voting record.

MANKIND SERVED IN LIFE'S WORK OF DR. MARK HOLLIS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, some men walk with giant strides.

Their lives leave an imprint for ages

to come. Such a man is Dr. Mark D. Hollis.

It seems only fitting and proper that a tribute to him should be delivered in these pages of the journal of the Congress, for Dr. Hollis is one of the great men of our time and his record of service to mankind in public health has never been excelled.

I wanted to make these remarks because of the regard I have for the Hollis family. They are distinguished and proud, and in making this tribute to Dr. Hollis here today, I want to express a note of gratitude to each of them for their contributions.

You see, Dr. Hollis was for 30 years a commissioned officer with the U.S. Public Health Service, for 15 of those years the Assistant Surgeon General of the United States.

He continues a proud tradition begun by his father, Dr. Mark D. Hollis, Sr., a medical doctor, who was a commissioned officer with the U.S. Public Health Service from 1909 until 1932, and carved out an enviable record of service in his own right. His mother's maiden name was Anne Tharpe, a music teacher.

Both parents were Georgians and there is a strong tie of love and loyalty in the family for this great State.

Four sons were born to this union.

Howell T. Hollis retired 2 years ago after a fine career of service with the athletic department of the University of Georgia.

William Mercer Hollis is a distinguished man and Mason, member of the supreme council of the Scottish Rite, a past grand master of Masons in Florida, and serves as the vice president for the Publix food chain. Might I add, a very warm personal friend.

Mark was the third of the sons, born in Buena Vista, Ga., on September 24, 1908.

Jeff F. Hollis decided on a military career, retiring as a colonel after a distinguished record which included the Battle of the Bulge in World War II.

The family moved around as the father was given new assignments. There were four high schools in four States, including a 2-year stay in China, 1910-12, when Mark was 2.

The family lost Mrs. Hollis in 1922 and the father carried on. He was a man whom his sons greatly admired and their lives are perhaps the greatest tribute that he would have wanted for remembrance.

Dr. Hollis attended the University of Georgia where he received a bachelor of science degree in civil engineering in 1931.

The University of Florida conferred a doctorate degree in 1956.

Most people, when they hear his name and know of the Public Health Service, think that he is a member of the medical profession. Rather, he is a distinguished engineer and is a member of a corps of dedicated men who serve the Nation and world in fighting disease far beyond what most people realize.

After his graduation from undergraduate school, he worked with the Rockefeller Foundation before joining the Public Health Service in 1933.

The U.S. Public Health Service at that time was the fifth of the Nation's uniformed services, a little known fact. Later the Air Force was added to that number

of the Army, Navy, Marines, and Coast Guard.

The President dictates the use of the Public Health Service in wartime—President Wilson using the Service as a Corps in the Army and President Roosevelt splitting its service as the need dictated among the various services. That work was in tropical diseases, critical in the Pacific campaign, and some environmental programs.

Dr. Hollis has a basic belief that there are no failures in research. His first work with the Rockefeller Foundation was research on typhus fever in Alabama where there was a large epidemic at that time.

The cause, after much study and failure, was that this was a rat borne pestilence coming from parasites or tick feeding off of the rat. The job then became one of getting rid of the hosts.

When DDT came into being, it was found to be highly effective in controlling rats and literally ended typhus fever in military areas in the United States.

His career has been varied and exciting, working to eradicate disease and water pollution. One of his projects was the first study of what happens to sewage in waterways and the resulting pollution.

A stint in North Dakota developed the State's environmental structure from a health department of two people.

In 1938, he was assigned to Cincinnati where the Army Engineers were just beginning to build impoundments. Here the work was in developing multipurpose uses for the impounded waters, work which set the stage for such use over the Nation since that time.

Dr. Hollis left Cincinnati at the beginning of World War II to come to Washington to work in development of defense related activities.

This set the stage for a move to Atlanta to specialize in eradication of tropical diseases—vital to the war effort as tropical diseases were a major threat to our fighting forces in the Pacific.

Perhaps the man he has most admired in his professional career was the late Dr. Thomas Parran, Surgeon General of the United States. Dr. Hollis calls him one of the greatest men who ever lived and his career was greatly influenced and encouraged by Dr. Parran.

Dr. Hollis retired from the U.S. Public Health Service in 1961, with the rank of rear admiral.

For 15 years he was Assistant Surgeon General, Chief Engineer, with the rank of major general.

Since 1961, Dr. Hollis has served with the World Health Organization—first as Chief Engineer in Geneva, Switzerland, and now is retiring as Chief Engineer of the Pan American Health Organization, Washington, D.C.

In his 40 years as a public servant, Dr. Hollis has made outstanding contributions to the development of programs, both national and international, in the field of environmental engineering-science.

In essence, his philosophy has been to anticipate impending developments in technology so that the strategy of public-health practice would rely less on corrective measures applied after outbreaks of epidemics or other health-related disasters and more on the ability to predict

and control the future security and well-being of a changing society.

Repeatedly, this policy found practical expression in his participation in re-orienting the National Institutes of Health toward investigation of basic biological and environmental phenomena, his role in extending the center in Atlanta beyond malaria eradication to a broad program of preventing communicable diseases, and his influence in encouraging the center in Cincinnati to encompass all environmental stresses in its investigations.

His early concern with the unrestricted discharges of heavy metals, as basic biological threats, have been vindicated by recent history, and his present predictions of environmental changes, from the tropics to polar regions, now have the attentive ear of health authorities.

During the war years, Dr. Hollis directed war-related programs in tropical diseases, giving special attention to malaria, dengue, endemic typhus, and filariasis. He was a central figure in the planning and establishment of the U.S. Public Health Service's Communicable Disease Center in Atlanta, Ga., and served as its director.

In 1947, Dr. Hollis served on the three-man committee established by Surgeon General Parron to plan expanded research facilities for the National Institutes of Health. Dr. Hollis was essentially responsible for the establishment—1952—of the USPHS Robert A. Taft Engineering Center in Cincinnati, Ohio.

His major contributions have been as a developer and administrator of health-related programs, with emphasis on emerging social, political, and economic trends and on forecasting—and effecting corrective or remedial means to meet—the impacts of advancing technology.

Dr. Hollis was awarded the Distinguished Service Medal in 1961 for his work in the Public Health Service.

He is a fellow in the American Society of Civil Engineers, a founder of the American Academy of Environmental Engineers, and a member of numerous boards and commissions, both national and international.

Dr. Hollis is past president of the National Malaria Society, past president of the Water Pollution Control Federation, director of the National Sanitation Foundation, and a life member of the COA, APWA, and CSS.

In the spring of 1967, Dr. Hollis was honored by election to membership in the National Academy of Engineering and is presently serving on several NAE committees.

His numerous publications have gone beyond technical literature—including a cover article on air pollution in the U.S. News & World Report. This article, appearing in 1958, forecast the air-pollution situations we are now experiencing.

In the early 1950's, Dr. Hollis spoke out strongly about the growing significance of chemical pollutants in the environment. His views have also received coverage in other media, including the daily press, radio, and television.

Who's Who in Engineering, Who's Who in America, and Who's Who in the World are among the several publications con-

taining biographical sketches of Dr. Hollis.

Having made so many decisions in life, Dr. Hollis is correct in his belief that the best decision he ever made was in being fortunate enough to meet a lady named Virginia Houchins, of Gaithersburg, Md., and to win her hand.

From this union came two beloved children, Mark, Jr., who teaches in the Montgomery County school system in Maryland, and a daughter, Mrs. Virginia Ann McKenzie, of Rockville, Md.

Dr. and Mrs. Hollis are the proud grandparents of Mark's daughter, Shelley, and Virginia Ann's son and daughter, Mark and Bebe.

His has been a great career. I take great pride in saluting a distinguished American and worthy representative of a truly fine family.

SHIPYARD FOLLIES

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, the following article appeared in that respected publication, the Wall Street Journal this morning. It documents many of the fears that many of the Members of this body and the other had when the decision was made to give the entire shipbuilding program of the Navy to one shipyard. As a Congressman representing the district which includes the world famous Fore River Shipyard in Quincy, Mass., I cannot help but call the attention of the American taxpayer to the gross waste and inefficiency which had resulted from this decision.

It also bothers me deeply that at the very time that the historic Fore River Shipyard is faced with the imminent possibility of closing because of a lack of orders after October of 1972, that there should be a backlog of \$3 billion worth of Government contracts in one yard which is already over a year behind schedule.

Mr. Speaker, Massachusetts contributes more than its fair share of tax revenues to our Federal Government. In view of the tremendous importance of Government spending to the economy of whole areas around this country, it seems to me that some of the wealth could be spread around a little bit better, a little more equitably, and a little more efficiently than it has in this instance. The results would not only have made better economic sense, but better business sense and better sense for the security of our Nation. If the article is even remotely accurate in its reporting, then it seems to me there is every justification for Congress to look into the situation firsthand so as to avoid such extravagant mistakes again in the future.

The article follows:

[From the Wall Street Journal, Dec. 9, 1971]

SHIPBUILDING SETBACKS—DELAYS, PROBLEMS AT A NEW SHIPYARD RAISE FEARS THAT NAVY'S FLEET MODERNIZATION MAY BE DELAYED

(By Richard J. Levine)

PASCAGOULA, MISS.—The Austral Envoy is a hard-luck ship.

Still at the shipyard more than a year after it was to have been delivered, the 30,000-ton container vessel has been dogged by trouble since Litton Industries Inc. started work on it. Many of the 240 steel sections of which it is composed didn't fit quite right. After the ship was launched in June, its 520-ton deckhouse sagged nine-sixteenths of an inch; bulkheads below buckled. One of its cargo holds was too shallow. Its anchor didn't work right. The ship is three inches shorter than allowed in contractual specifications.

"I think I've seen everything *not* to do in shipbuilding done on that ship," says John MacInnes, the Federal Maritime Administration's construction representative at the Litton yard.

For months now Litton has been busily fixing those things that can be fixed. But the sorry saga of the Austral Envoy still has a lot of top Washington officials worried. For it is the first ship built at Litton's highly touted new automated "shipyard of the future" here on the Gulf Coast—a yard that has a backlog of nearly \$3 billion in Navy work and a plethora of problems ranging from management turnover and manpower shortages to late deliveries and shoddy workmanship.

Unless solved quickly, these problems threaten serious financial and technical trouble for two of the biggest shipbuilding projects in Navy history. They are the building of five amphibious assault ships (known as LHAs) the size of older aircraft carriers and designed to carry combat-ready Marines, and the building of 30 fast 7,000-ton destroyers (known as DD-963s) that will replace World War II warships.

REASON TO WORRY

Setbacks on the LHA and the DD963 would surely hurt Litton, produce new congressional probes into "Pentagon mismanagement" and jeopardize the Navy's extensive plans for fleet modernization. Problems with the destroyer project would be especially embarrassing, since the Pentagon, over the strong objection of many lawmakers, insisted on building the ships at a single unproven yard in hopes of saving money.

Litton and Navy officials maintain that the "startup problems" that plagued the Austral Envoy are rapidly being overcome and that the Navy programs are in good shape.

Rear Adm. Charles Payne, the Navy's shipbuilding supervisor in Pascagoula, says the slippage on the LHA, already a year late, "has mostly occurred" and that the DD963, slated to go into production in January 1973, is "on schedule." (In Washington, one gets a slightly different destroyer status report: Navy officials say the program is currently two months behind schedule but that this won't delay production.) And while Fred O'Green, Litton's energetic executive vice president, admits the new yard still has "a lot of problems," he insists: "We're doing just great."

Others—in Congress, the Maritime Administration, the shipbuilding industry and the Navy itself—aren't so sure. Despite recent signs of progress here, the general view among outsiders is that vastly improved management—as well as a bit of luck—will be required to get the yard "debugged" fast enough to avoid problems on the Navy work.

Sen. Margaret Chase Smith, the Maine Republican who sought the \$2.1 billion destroyer contract for a home-state company, has charged that "as time goes on" the DD963 program has the earmarks of "another C5A scandal." Though there's obviously a bit of political hyperbole in that statement, a Navy insider, who believes Litton "bit off more than they can chew," is worried. "All the evidence seems to point to trouble," he reflects. "Maybe Margaret is right." Federal Maritime Administrator Andrew Gibson views the yard's start-up woes as "far more severe" than normal. "Layman or nonlayman, you have to have some concerns" about the future, he says.

CONCEPT STILL SEEMS SOUND

Significantly, the problems at the yard, known as Litton Ship Systems, haven't brought into question the basic soundness of its advanced assembly-line concept. Financed with a \$130 million Mississippi state bond issue, the 18-month-old facility is radically different from conventional shipyards, where vessels are built in one piece from the bottom up.

Here, as in the most modern Swedish and Japanese yards, ships are constructed in relatively small assemblies and sub-assemblies. Already fitted with piping, electrical wiring, machinery, boilers and other equipment, these sections are then fastened together in giant "modules" that weigh thousands of tons. Finally, the modules are "mated" to form the complete ship. Litton believes the facility, designed for large-scale production, will be able to produce higher-quality ships at lower cost than conventional yards.

Thus far, however, Litton has found the new techniques easier to describe in slick, multicolor brochures than to execute. And Mr. O'Green concedes that Litton will lose a substantial amount of money on the \$20 million Austral Envoy, built for Farrell Lines Inc. of New York; he won't say how much.

The main problem seems to have been people—at the top and at the bottom of the organization.

At the top, where Litton has been accused of having too many former aerospace executives, there has been considerable turnover. The president of the yard, Robert Roderick, was replaced last month by Mr. O'Green, and a general manager was named. Earlier this year two key executives in the shipbuilding program—Ellis Gardner, senior vice president, and Harry Gray, senior executive vice president—left the company.

CHANGE IN ATTITUDE

Mr. O'Green's decision to run the yard himself, at least temporarily, pleases federal officials. In the past "we tried to give them guidance but were completely ignored," says a Maritime Administration man. "Since O'Green, the attitude of management has turned about 180 degrees."

Today Litton officials, reviewing the mistakes made on the Austral Envoy, believe they should have moved into the new modular construction techniques more gradually, building a greater portion of the ship by conventional methods. During and after a quick walkthrough inspection of the Austral Envoy Mr. O'Green and others discuss these troubles.

Many steel plates were cut too short, a major reason the sections failed to fit together smoothly. This means a lot of steel had to be scrapped and new pieces cut, adding to the cost of the ship.

Complicating the problem, some steel beams were welded in the wrong place, something one yard official blames on "inexperienced people." In some cases, others say, instructions on "work packages" weren't clearly written and proved difficult for employees to follow.

Asked about the most spectacular failure—the sagging superstructure—a vice president of the yard replies bluntly: "We just goofed." Somehow, six steel beams that help support the deckhouse were left out during construction, and the mistake wasn't discovered until too late. To correct the sag, the entire superstructure has had to be jacked up and the missing beams inserted.

"Bad engineering" and "bad castings" produced an anchor that now sits improperly in the "anchor bolster," a device designed to keep the hoisted anchor from damaging the hull when the ship is under way.

SECOND SHIP LOOKS BETTER

Most of these problems have been corrected, but there's nothing to be done about those missing three inches in length. Yet Litton officials assert it isn't much of a mistake

anyway. Specifications allow shipbuilders some leeway—6.68 inches in the case of the 668-foot Austral Envoy—but the ship turned out to be nearly 10 inches short, or some three inches beyond the margin for error.

Missing inches and sagging superstructures are a thing of the past, Litton officials insist. They say quality control has been improved and the yard is benefiting from a "learning curve"—aerospace argot for experience. Indeed, independent observers confirm that a second ship (of four) being built here for Farrell is turning out a lot better.

In the long run, however, the toughest problem confronting Litton here is likely to be recruitment and retention of the large, skilled labor force required for the giant Navy projects. There now are 5,200 workers at the new yard, and plans call for expanding the work force to 12,000 by the spring of 1973, when the LHA will be well into production and the destroyers will just be starting.

It won't be easy. At the moment, the yard has 1,800 fewer employees than specified in an energetic recruitment drive. Litton attributes the shortage largely to the impact of a recent month-long strike, low pay scales under an old labor contract and inadequate housing in the Pascagoula area.

Yet officials remain optimistic, contending that a new labor pact signed early last month will prove an important asset. With the increased wages the new contract provides and the huge backlog of work, "what we're promising (prospective workers) is long-term security," says Ben Borne, vice president for industrial relations at the yard.

From management's perspective, perhaps the most important feature of the new contract is the clause allowing the company to assign work without regard to traditional craftlines. This flexibility, it's hoped, will enable Litton to make the most efficient use of the assembly-line, modular construction techniques.

As the company moves into full swing on its Navy contracts, it has another important asset—its Ingalls nuclear shipbuilding yard, just across the Pascagoula River from the new yard. Ingalls has been in business since before World War II, enjoys a good reputation for conventional shipbuilding and employs 8,500 workers.

Programs as well as workers have already shifted between the sister yards. With the Farrell Line ships way behind schedule, last May Litton moved construction of four ships for American President Lines to Ingalls. It's hoped this change will ease pressure on both Navy programs.

But there is also a drawback. The new yard will have less experience when it undertakes LHA and DD963 production, and this has not gone unnoticed within the Navy. "We're not guaranteed the mistakes (on the Farrell ships) won't recur," says Rear Adm. Nathan Sonenshein, head of the Naval Ship Systems Command in Washington. "But we're hopeful the bugs will be worked (of the yard)."

The LHA and DD963 delivery schedules are considered "damn tough"—though possible—by Litton officials.

The first LHA, whose keel was laid on Nov. 15, is due to be delivered in April 1974, 12 months late. Litton says numerous design changes and coordination problems with the Navy caused the delay. The Navy won't discuss the situation because, with a penalty clause in the contract for lateness, it will be a subject of intensive Navy-Litton negotiations next year.

Those talks will also involve the size of the government payment due Litton as a result of the Navy's decision to reduce the LHA program to five ships from nine. The cancellation cost could run as high as \$109.7 million. The reason given last January for the LHA cutback was "overall Navy reductions," but the suspicion lingers that Litton's un-

foreseen start-up problems had something to do with the decision.

The first DD963 is scheduled for delivery in October 1974, and starting with the 10th ship Litton is obligated to deliver one destroyer a month. Navy officials are heartened by the fact that the engineering design work is, according to a key admiral, "essentially on track." Another good sign for the Navy is that Litton has let subcontracts totaling \$573 million.

The current price tag for the 30 destroyers, including government-furnished equipment, is \$2.71 billion, or \$90.5 million apiece. The constantly rising cost of labor and material, covered by an escalation clause, will drive that up further—and late delivery would inflate the bill even more.

If this happens it won't be easy for the Navy to cut back the number of ships in the program. Under the cancellation clause, it could cost the government \$335 million to back out of the deal for ships 10 through 30.

THE NEED FOR RECOMPUTATION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the President of the United States has made it very clear that he wants an "all volunteer force" of active duty personnel to maintain our national security during peacetime, supplemented by a strong Reserve Force in the event that contingencies should break out which will exceed the capabilities of the Active Forces.

In other words he proposes to maintain adequate Active and Reserve Forces in the future in a zero draft environment.

Many of us have questioned the capability of the Defense Department to do this, but all of us concede that it is worth a try.

For it to succeed requires new incentives for both the Active and Reserve Forces. These incentives must be genuine and strong by motivating if they are to have an effect.

In the light of this premise, with which I believe we all must agree, I have read the President's Interagency Committee's Report to the President recommending a new retiring law with surprise bordering on shock.

Let me give you some highlights of this proposed plan.

First, I should report to you the objections that the committee states are necessary. I quote—

The non-disability retirement subsystem has two general objectives: management effectiveness and just treatment of members.

Under the caption of "Just Treatment" of its members the committee states—

Provide, after many years of faithful service, some degree of financial security that is understood, guaranteed, and protected against the inroads of inflation.

Let me point out to the Members of this body that this is precisely what our forefathers in the Congress did over 100 years ago when they passed the first Military Retirement Act and included the principle of recomputation. When the Congress in concert with the Executive in 1958 and again in 1963 broke faith with the military and rescinded this law it shook military personnel and their

families from stem to stern. How then can they be persuaded to assume that anything in this new plan can be accepted as "guaranteed"?

I say to the Members that the only way in which confidence can be restored in the minds and hearts of the members of the military services to the point where they can accept any kind of retirement plan as a "guarantee" is to return to the principle of recomputation.

The committee then goes on to say that there are three primary reasons for changing the retirement system. These three reasons are said to be: it is inefficient; it creates inequities among members; it has a high and increasing cost.

The charge of inefficiency is a sweeping generality not supported by facts and contradicts the University of Michigan study which was made several years ago for the Senate.

The charge that it creates inequities is true. Of course it does—but the source of the inequities created, is the elimination of recomputation from the law. A restoration of recomputation would erase these inequities at once.

As for cost, any retirement system which will be attractive will be costly. To reduce the emoluments will not only break faith again but will also reduce the attractiveness of a military career.

Now, let us look into the the DOD proposals.

The first is to increase the multiplier in computing the retired pay of older longer service retirees from 2½ percent to 3 percent for each year of service from 25 through 30 years and from 0 to 2 percent for each year of service from 31 through 35 years.

Mr. Speaker, in the course of the many years that I have spent on the Military Appropriations Subcommittee it has been my privilege to meet and to know literally hundreds of generals and admirals in the services. They are of the highest caliber and have my deep respect and admiration. Generally speaking, these men want to stay on active duty beyond their mandatory retirement dates. They want the opportunity to do so more than they want further incentive.

From the standpoint of retention needs or management effectiveness the administration proposal is invalid and serves only to place these high ranking officers on the retired list with even higher pay at the expense of the relatively junior officers and the enlisted men.

The second proposal is to reduce the retired pay of younger, shorter service retirees by an age and length of service formula which will reduce their retired pay by 2 percent per year for each year that the retiree is under the age of 60. The reduction will be lifted at age 60. The retired pay of those with less than 25 years of service will be reduced by 2 percent for each year the retiree will be under the age of 55. The reduction will be lifted at age 55.

This is a shocking proposal. The rationale for it is based upon a desire to retain military personnel past the 20-year point. This premise is false. The great majority of the officers who retire with 20 years of service are forced into retirement by the attritive provisions of

the promotion laws to maintain the pyramidal structure of the officer grades in the several services.

Let us take the case of a young man who graduates from the Air Force Academy and enters into a professional career in the Air Force. At this point, he has two important incentives. The major one of course is a full career, culminating in his attaining general officer rank. The other, is the knowledge that there will be attrition and a certain percentage will be forced into retirement at the 20 and 26 year, but if this befalls him, he has a retirement income that will see him through at this critical time in his family life.

Our young man has turned in a good performance, but in the competition for selection to the grade of lieutenant colonel, he is not among the best qualified. Due to the inexorable provisions of attrition, he is forced into retirement upon completing 20 years of service.

The provisions of this new proposal will reduce his retired pay by 2 percent per year for 18 years or, by 36 percent, until he reaches the age of 60.

There are other provisions relating to the active forces which I will not take up on the floor other than to say that they are already provided for in law today.

With the all volunteer force concept a goal and the consequent reliance upon Reserves make it imperative that Reserves also be given strong incentives; yet most of the proposals for Reserves will result in lower retired pay for them due to a computation based upon pay scales in effect upon transfer to the Retired Reserve instead of when they are transferred to the retired list with pay.

The proposal also limits medical coverage of champus for Reserve retirees.

For both active and Reserve personnel pay scales for retirement purposes would be based upon the average of the highest 3 years of pay. The purpose is baldly to cut down on the amount of retired pay drawn. It could result in a lieutenant colonel retiring on the pay scale of a major.

There are some good provisions in the Reserve retirement proposals but in every respect the retired pay accruing to the reservists will be reduced.

Mr. Speaker, time prohibits me from going into all aspects of these proposals. There are those who feel in it may be termed a general's bill and an admiral's bill for they profit most by its works.

We should not attempt to reduce the retirement rights of our military to the level of either civil service or private retirement plans. They are based on entirely different requirements for service. The rigors of service life, the family separations, the overtime without pay that is constantly required, the rigid discipline, the different judicial code under which they live, the fact that they must face attrition at an early age and the overriding factor that they place their lives at the service of their country puts them in an entirely different status that demands better not equal or worse treatment.

Mr. Speaker, the security of our Nation is in the hands of its military personnel, Regular and Reserve. This money-

saving crown of thorns must not be pressed down upon their brows. After the holidays I intend to offer legislation which will retain the splendid retirement system designed by our forefathers in this Congress, which has passed the tests of time for over 100 years, and return to these splendid men and women the principle of recomputation which is their right.

SOUTH AFRICA IN A CHANGING AFRICAN SCENE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the South African Scope of November-December 1971, contained a comprehensive statement on the Republic of South Africa which tells much that is not known about the efforts of that fine country toward a better understanding with its neighbors. The article is written by Dr. C. P. Mulder, South African Minister of Information. We will do well in the United States to try to understand the objectives and efforts of this nation which has been a constant and dedicated friend of the United States. Dr. Mulder's article follows:

[From the South African Scope, November-December 1971]

SOUTH AFRICA IN A CHANGING AFRICAN SCENE

We live in a changing world and Africa is, especially since 1960, a fast-changing continent. Independence was given to many African countries. In some of these countries stability and gradual growth in different spheres, were the fruits of this step. In many other African countries the whole system collapsed, and after a period of chaos, riot and civil war, order is gradually returning. Leaders came and went—but in this whole process, Africa was adapting itself to the new changed situation.

The African continent woke up after its sleep of many centuries—the young giant was looking around in the world of the twentieth century asking himself what part he was to play. During this period of adaptation, many ideas, concepts and systems of the previous period were evaluated in the light of new circumstances. Some were totally rejected, others maintained or reformed to fit into the African concept according to the customs and demands of Africa. In many African countries this process is still continuing.

The fact of the matter is that the continent of Africa is finding its own feet and rightful place in the Third World. The nations of Africa are preparing themselves to play their part.

South Africa not only sincerely wishes them well, but also claims to be part and parcel of the awakening Africa, doing its share in its own way to assist African countries where ever possible and by guiding the nine African nations within our boundaries to full independence and sovereignty, and full participation in international affairs.

South Africa claims to be one of the first African countries to obtain full independence, after its long history of colonial government.

We in South Africa have chosen Africa as our one and only fatherland at a time when many European countries still regarded Africa as a dark and backward continent. Mr. Chairman, more than two centuries ago we accepted the names Afrikaners, and called one of our official languages, Afrikaans, in this

way permanently binding ourselves in love and loyalty to the continent of Africa.

By doing this we became really and truly Africans, white Africans, more than two centuries ago. And this we still claim to be today. Africa has treated us well, and we will serve not only South Africa, but also Africa to the best of our ability.

Far from being left behind, or shunted aside, South Africa has been in the very forefront of the changing African scene. By virtue of her political stability, economic vitality and general capability, she has been able, and willing to provide the friendship, support and assistance of which many emerging African countries obviously stand in need. South Africa believes that she can make, and has already made, a valuable contribution to the development of other African states and to the peace and security of Africa.

South Africa has repeatedly stated that she is at all times prepared to help, as far as is practically possible, other African states to help themselves. She does not believe in give-aways or hand-outs or assistance with strings attached. The aid given must not impair the self-respect of the country concerned—this is the only way in which lasting, long-term development can take place in Africa.

Co-operation must be on a basis of equality; it must be based on the recognition of the sovereign independence of states. Nigeria for example, will surely and rightly not be prepared to allow South Africa to tell her how to deal with her domestic affairs. In the same way South Africa has the right to solve her problems in her own way. But still these two countries could co-operate in solving mutual problems of Africa. Only on this basis there can be constructive co-operation and true friendship between states despite possible differences in domestic policies.

Surely, the United States of America, does not agree with the domestic policies of Russia or Red China, but that does not prevent her from co-operating with Russia in the space program, or playing ping-pong in Peking. It is interesting that both President Pompidou and Mr. Heath emphasized that membership of the Common Market did not mean the disappearance of essential properties of sovereignty.

This is exactly the basis for South Africa's approach to multi-national development in South Africa itself as well as in respect of the economic inter-dependence of the states of Southern Africa. This should also form the basis for co-operation between all African countries. Israel, as you know, has made it clear that she is willing to co-operate with her neighbors, but only on condition that the Hebrew character and identity of Israel were not endangered.

The South African nation, for its part, is prepared to co-operate with its immediate and more distant neighbors, but it is not prepared to sacrifice its political-cultural identity. We believe in self-determination of nations and equality of people. That is the reason why we are assisting the nine black nations in South Africa to achieve sovereignty and full independence. And we have gone a long way towards success. All of these nations have progressed considerably since 1959. Many black leaders have come forward to speak of the sincerity and integrity of the South African government's attempts, not only to assist them to obtain a better standard of living, but also to obtain political freedom. And may I remind you Sir, that this is all being done without any foreign aid or assistance.

We believe that these nine nations must become sovereign independent states in their own right, exactly as free as Ghana, Nigeria, or the United Kingdom, with full membership of the United Nations if they so desire. We also believe that they are entitled to maintain their own way according to their

own wishes in their own geographical territories. To achieve all these ends we are not only offering them a helping hand, but are encouraging them as far as possible.

At the same time we also believe that the South African nation is similarly entitled to self-determination and the maintenance of its own identity in exactly the same way.

My Prime Minister has proved himself to be prepared to meet fair requests for greater realism in racial matters in South Africa as far as possible. We know him as a very practical man, who is prepared to face the realities of life. He has stated quite clearly that separate development is not a denial of human values, but that it flows from the acceptance of human values.

For this reason he has quite often spoken out and acted to ensure that the dignity of all people in South Africa remains intact.

He is also a courageous man who is prepared to bring about changes, if and where necessary, and even face criticism and a break away from his party, as happened in 1969, when he believes it to be in the interest of South Africa.

But, if we are asked to change certain laws and customs in South Africa—laws and customs which may be unpopular according to world opinion, but which are devised to prevent friction among the different nations and to maintain and protect the identity of the South African nation, then the world is asking too much. The reply must, and will always remain: "No, we are not prepared to sacrifice our identity as a nation in our own right, or our future, to satisfy the demands of world opinion."

It is true that for a period of time, feeling between South Africa and Black Africa was being whipped up by our enemies to an explosive pitch, and the impression created that racial tension in Africa was rising towards breaking point. And let us face facts: some of our more unscrupulous critics have quite obviously been relishing the prospect of a racial explosion. That, after all, was what they had consistently prophesied, and they were obviously not prepared to be disappointed in their expectations.

That Black Africa could display a measure of understanding of our particular situation and resultant policies instead of presenting an all-out intractability and hostility, was not apparently regarded as within the bounds of possibility. Time is proving that a racial confrontation in Southern Africa is not necessary. And the South African Government, of which I am a member, certainly does not believe it to be necessary. In fact, we have never believed that it was inevitable.

We believe that there is diversity in the unity of God's creation on earth. We believe that there are well founded differences between people, which do not make them superior or inferior to one another, but distinctly different from one another. These differences, if not guided carefully with tact and wisdom, will cause friction and may even flare up in war and bloodshed. These differences may be in religion as in India and Pakistan, or in Northern Ireland. These differences may be in language, as in Belgium, Switzerland or Canada. These differences may be in color and race as in the United States. These differences may be in culture and custom as it is found in countries like Nigeria, Somalia, Ethiopia, Kenya, and others.

These differences have nothing to do with superiority or inferiority, but they cannot be ignored. It is a plain matter of fact, to be accepted and handled with great care, diplomacy and wisdom in order to prevent friction and revolt.

In South Africa we have a combination of all the differences mentioned above, i.e., religion, language, color, race, culture and customs. It must therefore follow that South Africa has more potential for strife and friction than most countries of the world. And yet I make bold to say that very few coun-

tries can equal South Africa's record of peaceful co-existence, stability, economic growth and high standard of living for all its peoples comparatively speaking. May be that is the reason why we have to have check points on our borders, not to prevent people from breaking out, but to prevent people from illegally entering South Africa to find employment and a higher standard of living. And Sir, I have never heard of free people voluntarily trying to slip into a police state (as South Africa is often made out to be) to be suppressed and belittled. We firmly believe that in the fullness of time, common sense and rational thinking will prevail over misunderstanding, emotion and, in some cases, downright ill will.

What has encouraged us in this belief more than anything—have been the good and improving relations we have long had with the Black nations in South Africa as well as in our immediate proximity; with countries like Malawi, Swaziland, Lesotho and Botswana.

Dialogue with the Black people of South Africa takes place every day. Perhaps I must mention for example that since January of this year, full delegations of at least three Black developing nations in South Africa, went to Cape Town and had official discussions with my colleague responsible for Bantu Administration and Development, as well as with our Prime Minister. Round table conferences took place and matters of mutual interest were discussed at length. Press interviews were arranged after these meetings and Black leaders spoke out clearly on this dialogue between the South African Government and Black developing nations in our midst. Subsequently the leaders of the Vendas and the North Sothos had official discussions with the Prime Minister in June this year. Mr. Wessel Mota, leader of the South Sothos at Witzleshoek, visited Pretoria to negotiate, while Chief Gatsha Buthelezi, the leader of the Zulus, who has just returned from a visit to the United States, had discussions with Mr. Vorster shortly afterwards.

According to my information Mr. Kaiser Matanzima, Chief Minister of the Transkei, Chief Lucas Mangope, leader of the Tswanas, and Chief Buthelezi of the Zulus will visit Europe later this year, and will be able to speak for themselves on the future relations between their countries and South Africa.

Political leaders from independent states such as Botswana, Swaziland, Lesotho, Republic of Malagasy, Mauritius and Malawi visited South Africa recently and fruitful discussions took place.

Our previous Prime Minister Dr. Verwoerd, started the dialogue with our neighboring Black states when he had discussions with Prime Minister Jonathan of Lesotho in September 1966. Mr. Vorster has continued and extended this practice and even paid a visit to Malawi last year. Mr. Banda will reciprocate later this year when he officially visits Pretoria as Head of State of Malawi.

These people after all know us best, and if they can see sincerity in our intentions, it is possibly just a matter of time, or of opportunity, before other states in Africa gain a more realistic insight into what we in South Africa are trying to do. Our friendship with these neighboring states has not remained purely a matter of exchanging courtesies and civilities; it has assumed in many cases a concrete form. Realising that they are developing states that have had to come to grips with various development problems, we are doing what we can to assist them.

Assistance has been given in the form of for example famine relief, supply of electricity, provision of health and welfare services, signing of trade agreements to ensure markets for agricultural produce, the planning designing and constructing of various projects, and the provision of low-interest loans,

while the private sector in South Africa has been responsible for the opening of hotels, factories, plants and works, as well as the construction of railway lines and the building up of a physical infra-structure.

I can mention numerous further examples of definite assistance to these and many other African countries, but do not wish to ponder this aspect, as it may, perhaps cause embarrassment to some of these states.

The degree of economic and other co-operation between South Africa and her immediate neighboring states is far advanced. These states not only form a customs union with South Africa, but also a monetary union.

The Republic provides employment for a large percentage of their labor force, as also a ready market for their produce. Directly and indirectly they benefit from the South African infra-structure such as transport, harbors, power grid, communications, health services, industry and technology, and research institutions in virtually every field of activity.

From this secure basis of friendly relations with our immediate neighbors, we are now reaching out towards an extension of the friendly areas in Black Africa, and the past year in particular has brought significant developments.

There has been, first of all, a closer relationship with a number of these countries. Trade Missions have been exchanged and official visits were paid by leaders and ministers for the purpose of discussing the co-operation and assistance, technical and otherwise, that South Africa would be able to render.

In March this year, Dr. Muller, our Minister of Foreign Affairs, speaking on a motion in the South African Assembly approving the Government's policy of friendly relations and co-operation with other states in Africa, said that "hardly a week passed without South Africa having discussions with states in Africa."

A week or two later, our Prime Minister, Mr. John Vorster, in the course of his press conference made it clear that he would not only welcome a dialogue with Black African leaders but that such a dialogue could well include a discussion of the policy of separate development. He said:

"I will welcome the opportunity to discuss it with everybody concerned for the simple reason that more nonsense has been written and spoken about separate development than about any other subject that I know of. I will make use of the opportunity to explain what separate development is, that it is not what people think it is."

The Prime Minister has made it clear that South Africa is prepared to discuss any matter affecting peace and prosperity in Africa with other leaders in Africa on a basis of equality.

Late in April the President of the Ivory Coast, M. Felix Houphouet-Boigny made a statement advocating direct talks with South Africa, and calling on other African leaders to follow him.

This forthright statement, taken in conjunction with views expressed by other African leaders such as Prime Minister Busia of Ghana, President Bongo of Gabon, President Banda of Malawi, President Tsirirana of Malagasy and Prime Minister Jonathan of Lesotho, signals a new attitude in Africa.

This is not to say that one should expect radical achievements in the short term. There are bound to be set-backs, disappointments, hindrances. A great deal of hard work and patience from all concerned lie ahead. Nevertheless there is good reason to believe that we are entering a new era.

I believe that the future of Africa has to be decided and determined in the first place by its own peoples; by Black and White African states.

The United Kingdom has played its part in Africa in the previous decade, and so have France, Belgium, Italy, Germany, Spain and other countries. In future most of these countries will be mainly interested observers with indirect interests while we will be direct participants.

We have a duty towards Africa, more so than towards any other continent on the globe.

To return to the general topic of South Africa playing its part in a changing Africa, which is the main theme of this address, South Africa is well equipped appreciably to assist its neighbors and other friendly states in their development. Whatever people may say about South Africa, they cannot deny its economic pre-eminence on a continent which has always battled to make its way, a continent where poverty, ignorance and disease have flourished far better than have high living standards. In South Africa, taking into consideration all the challenges and moods of an ever changing Africa, a modern technostucture has been created on, and out of, the African soil. This benefits not only the black and white nations in South Africa, but also many African nations further afield.

The facts of South Africa's economic position in Africa are well known to you. She accounts for 40 per cent of Africa's total industrial production and 45 per cent of the mineral output. She produces the bulk of the continent's steel, coal and electricity; she possesses half of all Africa's motor vehicles and telephones, and also carries half of all Africa's railway freight. Then, with a total foreign trade exceeding \$2.8 billion per annum, South Africa ranks high among the world's leading trading nations.

South Africa's Foreign Trade figures for 1969 provide some very interesting reading. South Africa's imports from Africa amounted to R111,000,000 which puts Africa fifth after the United Kingdom, the United States, Western Germany and Japan, while the export figure of R255,000,000 puts Africa second only to the United Kingdom.

My country can, and will, if the goodwill and co-operation between ourselves and the rest of Africa are forthcoming, make a contribution to the continent's development and welfare.

We have, after all, already achieved for the developing nations in South Africa, excellent educational, medical, housing, transport and employment facilities and conditions.

I believe in the future of the African continent. It has the natural resources, it has gold, coal, diamonds, platinum, antimony, vanadium, chrome, asbestos, manganese, iron, copper, uranium, oil, it has vast open spaces which can be developed, it has the vegetation, the timber the water, the climate—but above all, it has the human resources, people, Black and White, who really love Africa and are prepared to play their part in developing this vast pioneering continent. Even if it took many years, Africa may well become the continent of the future.

I do think it is essential now that South Africa and Black African countries talk with one another, that we understand one another, and accept one another. Once we get to know more about one another, understanding and acceptance will follow. No doubt there are aspects on which we can criticise one another. We in South Africa do not regard ourselves as being above criticism; as a matter of fact, we have made mistakes in the past and we will make mistakes in the future, because we are human and therefore fallible.

Similarly, other nations, in Africa, and elsewhere, have policies which we feel quite able to criticise, should we feel so inclined. Negative criticism and condemnation will take us nowhere. But if we are prepared to accept one another's bona fides, we in Africa

shall be well on our way towards peaceful and beneficial co-existence.

Then I think we in Africa will be able to come face to face with the real problems of our continent. Then the different ways in which different countries run their own domestic affairs, can be regarded as relatively insignificant compared with other challenges facing Africa. Then we shall all realise that we are wasting time and energy criticising one another, and that we should rather provide for the real needs of Africa which are better education, more health facilities, bigger economic development, improvement in the field of agriculture, further industrial expansion, better housing and improved living conditions for all.

Then we shall also realise that the real danger is communist infiltration—whether it be Russian or Red Chinese, and that we should forget our small squabbles and differences and create better understanding amongst African countries.

In the light of this, South Africa's formal offer of non-aggression pacts with African countries, proves our bona fides, and offers the possibility to form a common front to combat communist infiltration.

These are the real problems facing us in Africa, and in this gigantic project, South Africa shall try to play her humble but very essential part.

NATION LOSES AN ABLE REPORTER

(Mr. GIBBONS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, we are all saddened by the death of an able man no matter when it comes, but when a man in the middle of an active and useful life comes to an untimely end because of a cruel accident, we are deeply shocked. The loss of Frank C. Porter, The Washington Post economics and labor reporter, is deeply felt by many. I am among those, for I had the privilege of knowing Frank when he covered legislation emanating from the Ways and Means Committee. Frank had the knack of unraveling the most complicated economic issues and stating them in simple and understandable terms.

Because the Washington Post article of December 9 about Frank is not only an account of Frank's many abilities, but because it is an inspiring story of how a man makes the best use of his talents, I would like to have the article inserted in the RECORD for all Members to read.

The article follows:

NATION LOSES AN ABLE REPORTER

Frank C. Porter, 53, national labor and business reporter for The Washington Post, died yesterday at George Washington University Hospital after choking on food and falling unconscious Monday night at a downtown restaurant.

He was having a business dinner at Duke Zeibert's Restaurant when a piece of steak lodged in his throat. He was temporarily unable to breathe and never regained consciousness.

Mr. Porter was described by his colleagues and competitors as the labor, business and government officials he covered as a master of one of the most complex specialties in journalism.

"Frank Porter was a credit to his profession—a dedicated, honest, careful reporter," said AFL-CIO President George Meany. "He was a fine and decent gentleman. All of us in the trade union movement which he cov-

ered so long and so well truly mourn his death."

Secretary of Labor James D. Hodgson said, "The death of Frank Porter comes as a shock to all of us."

"He was a knowledgeable and perceptive reporter. His coverage of the labor and economic scene was characterized by objectivity and fairness. The high level of professionalism he brought to his work, combined with his gracious and considerate manner toward people he dealt with earned him the respect of all of us."

"Personally, he was sharp and incisive, without being biting or bitter. He lightened numerous press gatherings with a warm wit and humor which aptly capsulized a situation."

"Both personally and professionally, he will be missed."

Walter Heller, former president of the President's Council of Economic Advisers, said Mr. Porter's coverage of the national economic scene "was very high fidelity reporting of facts and events it was very hard to reach the essence of; he was superb."

"He came to the job without the necessary background, but he gradually enveloped the field," Heller said. "The rate of growth was tremendous. He became such a perceptive reporter and was so full of compassion and concern about the human elements of economics."

Benjamin C. Bradlee, executive editor of The Washington Post, said, "What can you say? It always sounds so trite and stupid. He was a marvelous man, a marvelous journalist, a fine reporter. You could read his stories and understand what the hell it was all about."

"He was one of the best reporters in town," said Lee M. Cohn, labor reporter for the Washington Evening Star. "I competed with him for many years, and he was always fair and friendly as well as a fine reporter."

"I think he liked the labor part of the beat more because it was a more personal sort of thing with more colorful personalities and events. But he could do anything and do it well. He earned the respect of all his colleagues and of his news sources. We're going to miss him."

Mr. Porter was born on Jan. 16, 1918, in Winchester, Mass. He was graduated from Winchester High School in 1935, attended Phillips Academy at Andover, Mass., the next year and was graduated from Amherst College in 1940.

At Amherst, he sang in the glee club, wrote for the school paper and played both defensive and offensive tackle for the football team.

After graduation, he applied for a copy boy's job at Times Magazine that then paid \$15 a week. The slots were all filled, but he was able to sign in as a contributing editor at \$35 a week, writing for the People, Milestone, Miscellany, Business & Finance and Books sections of the magazine until May, 1941.

His reason for leaving "Discharged because I was apparently too young and inexperienced for the job and because of imminence of military service."

In December, 1941, he enlisted in the Navy and was assigned to the first class of "90 day wonders" at Annapolis, an emergency program to produce officers for service in the war.

After two years in Washington, he was assigned to the destroyer USS Mugford. He served as communications officer and senior watch officer, surviving a kamikaze attack in the Pacific.

In 1946, he transferred to the reserves as a lieutenant commander. A civilian again, he joined the staff of the Daytona Beach, Fla., Journal and in two years covered "everything but society: editorials, movie reviews, fea-

tures, substituting for telegraph and city editors."

His reason for leaving in June, 1948: "Low pay and dead-end job; wanderlust, wanted to try my hand at fiction."

He went to Peru. What became of *The Novel* is obscure, but while in Lima he attended the University of San Marcos for seven months and wrote the Peruvian Affairs section of *La Semana*, a Time-style weekly published in Arequipa. It folded after seven issues.

Mr. Porter returned to the States in 1949 and in November went to work for the Baltimore Evening Sun, where he worked as a copy-reader, general assignment reporter, feature writer, rewrite man, picture editor and drama critic.

He came to The Post on March 5, 1954. One of the reporters who worked for him while Mr. Porter was assistant city editor was Jean Belle Jones. They were married in 1957. Their children are John King Porter, 7; Laurie Wing Porter, 9; Robert Carpenter Porter, 12, and Stephen Jones Porter, 13.

Other members of the Porter household at 3702 Morrison St. NW have included a host of Latin American students, who have been tutored in English and in American customs and who tried without much success to improve Mr. Porter's Spanish.

Mr. Porter was fond of sailing with the family on their 32-foot, raked ketch, the "Long Gone."

He was a licensed pilot who managed to keep an old two-seater flying when he was making only \$110 a week at the Sun.

His kidneys were donated to two recipients at Georgetown University Hospital yesterday, and his corneas to the Lions Club eye bank.

A memorial service will be held at 11 a.m. Saturday at All Saints Episcopal Church on Chevy Chase Circle. The family asks that any contributions be given to the Foreign Student Council of Washington or Amherst College, and requests no flowers.

STRIP MINING: A NATIONAL TRAGEDY

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, we must face up to the facts and realize that strip mining has become one of the major environmental problems of our time. Up until recently, most people have thought of strip mining as being a peculiarly Appalachian problem. Representing the largest coal-producing State in the Nation, I can sadly state that strip mining has ripped the guts out of our mountains, polluted our streams with acid and silt, uprooted our trees and forests, devastated the land, seriously disturbed or destroyed wildlife habitat, left miles of ugly high walls, ruined the water supply in many areas, and left a trail of utter despair for many honest and hard-working people. Now strip mining is a national problem, with the land being ripped up and strip-minable reserves available in 28 States.

It is for this reason that I insert in the RECORD the following article by Miss Louise Dunlap which appeared in the January 1972 issue of *Not Man Apart*:

WHY STRIPPING MUST STOP

(By Louise Dunlap)

Surface mining is a mineral or fuel recovery process which removes all topsoil, rock, and other strata that make up the "over-

burden" above the extractable deposit. Strip mining is one of five surface mining processes. The others involve open pit mining (quarry, open cast), auger mining, dredging, and hydraulic mining.

Strip mining employs two methods based on slope. Area stripping, involving a series of trenches or "box cuts", creates miles of giant washboards, and is limited to relatively flat terrain. Contour stripping is practiced on hilly and mountainous slopes, typically over 13 degrees. Contour stripping usually follows the bed along the hillside, creating massive shelves contributing to landslides. The inside of the cuts form "highwalls", often more than 100 feet high. Appalachia alone has more than 20,000 miles of these highwalls. Auger mining may follow contour mining, when the ratio of overburden to the seam becomes uneconomical. At that point, the auger bores horizontally into the seam, sometimes 200 feet into a hillside with the help of cutting heads seven feet in diameter.

STRIPPING BOOM—DEEP-MINE BUST

The coal industry, once a deep-mine industry, is fast on its way to becoming the most extensive and devastating strip mine industry in the nation. Coal first stripped around 1915 constituted 1.5 percent of total coal production in 1920. Between 1920 and 1970, total coal production rose by 6 percent, while strip mine production as a percent of the total rose by 2600 percent.

Since World War II, new technology (power shovels with capacities of up to 325 tons a bite, bulldozers with seven-foot-high blades) and unprecedented electric power generation have been key factors. Stripping is expected to have captured more than 50 percent of total coal production by the end of 1971. Electric power utilities, with a 435 percent rise in coal consumption (1946-1969), are the largest single consumer of coal.

Evidence already exists that deep mining is in competitive trouble. The National Coal Association reports that between 1969 and 1970, while stripping increased by 47,094,000 tons, a rise of 23.9 percent, deep-mine coal production slipped 2.4 percent, or 8,344,000 tons.

STRIPPING OF THE WEST

A recent Bureau of Mines open-file report indicates that strip-minable coal resources total about 128 billion tons, while strip-minable reserves approximate 45 billion tons. Total deep-mine coal reserves are estimated at 750 billion tons. Unlike most mining industries, coal has a viable choice to extract deep-mine reserves first. The real riches lie in the west, where 13 states west of the Mississippi contain 77 percent of the total strip-minable reserves. Western coal, lying in thick seams, holds approximately 25.5 billion tons of the low-sulfur coal. Wyoming and Montana hold 21 billion tons of low-sulfur reserve.

ENVIRONMENTAL EFFECTS

Although the west, with its vast low-sulfur reserves, is anxiously encouraging an unprecedented coal rush, a variety of sensitive ecosystems are less likely to share in the profit.

Stripping scarred 3.2 million acres by 1965. No official cumulative count has been taken since 1965, but in 1969, the Bureau of Mines reports that 67,000 acres in 22 states were disturbed. If the federal government gives the green light to strippers, 71,000 square miles will ultimately be affected, an area the size of Pennsylvania and West Virginia combined.

Environmental damage is incurred as early as site preparation. Studies abound documenting the known damage wrought in the east. If the site was previously forested, clear-cutting is a prerequisite, other results include permanent damage to the water table by blasting, acid and mineral pollution, ten-

sion cracks, spill slippage, landslides, constant cutting-and-filling erosion cycles, siltation, loss of water retention capacities of watersheds, flash floods, reduced storm-carrying capacities of rivers, excessive silt pavements on riverbeds, loss of aquatic invertebrates, loss of oxygen, reduction in spawning, avalanches of rock and mud, houses washed down hillsides, soil sterility, exposed saline sub-soils, exposed and subsequently baked shales in lieu of topsoil, sparse vegetation—rarely consistent with surrounding ecosystem, loss of agricultural and grazing capacities of the soil, artificially induced and highly vulnerable sylvan monocultures. These are but a few of the documented effects of stripping.

SOCIAL COSTS

Social costs of strip mining, like the environmental costs, extend far beyond the aesthetic. In West Virginia, nine out of ten counties with the highest 1969-70 strip-mine production experienced population decreases of 6.25 to 29 percent; average decline, 17.6 percent. Similar population declines have been documented in Ohio and Kentucky with directly proportional relationships to increased strip mining. A study in Ohio, for example, indicates a decline of more than 50 percent in the assessed value of buildings per acre in Belmont County, as well as a decline in assessed value per acre. The *Cleveland Plain Dealer* documented that one coal company grossed \$65,000 per acre, paid \$17 in taxes and \$300 per acre for reclamation. In many cases coal companies, when stripping is completed, either resell stripped lands at a slightly enhanced value if they have fulfilled the technical requirements of reclamation in the state, or donate the land to the locality or state, thus gaining a handsome tax advantage. The on-site and off-site environmental damage is clearly being externalized by the coal industry and passed on to the taxpayer as a social cost.

"RECLAMATION" OR CAMOUFLAGE?

Twenty-six states have enacted surface mining laws. The recently enacted Pennsylvania law is considered the most stringent, with Kentucky and West Virginia laws close behind. But, even in states with the toughest laws, stripping continues unabated, and it is exceedingly rare—certainly the exception—to find any piece of strip-mined land devoted to productive use. Existing surface mining legislation has been without exception inadequate in its conception and subject to lax and ineffective enforcement. There is a lack of state land-use planning. No state engages in a systematic process by which certain lands are designated as unsuitable for strip mining and permanently set beyond the reach of strip-mining operations.

Reclamation requirements in state regulations are totally inadequate. The term "reclamation" itself is generally defined, if defined at all, as reconditioning, regrading, occasionally reseeding under an approved plan, with camouflage, not restoration, as a mark of "reclamation." State regulations focus on technical procedures rather than results.

Performance bonds in state regulations do not come near to reflecting the true costs of reclamation. Pennsylvania is the only state with a bond deposit greater than \$1,000 per acre, and many states place bond requirements at \$50 per acre. Officials in Pennsylvania claim that \$250-\$500 per acre is adequate for reclamation, but the Peabody Coal Company has testified that it is spending \$8,000 to \$10,000 per acre at a site in western Pennsylvania. The state of Ohio permits a stripper to substitute reclamation efforts on older stripped land to meet reclamation requirements in lieu of restoring freshly stripped lands.

Most states lack manpower and dollars to carry out even the weakest sections of the

laws. Wyoming has a grand total of one inspector for all mining operations in the entire state. North Dakota has appropriated only \$3,000 for two fiscal years.

Basic to any regulatory strip-mine legislation is the assumption that stripped lands can be "reclaimed." But studies and experience on a site by site basis indicate that "reclamation" typically means camouflage, or "alternate use" and that restoration to at least the original state and potential is almost non-existent. The political and economic influence of the coal industry make strict enforcement, even in states with weak legislation, improbable if not impossible.

SAFETY

A persistent argument used by opponents of a stripping ban is that miners would be deprived of the relatively greater safety of surface mines and condemned to work in more dangerous deep mines. In fact, the poor deep mine safety record is largely a product of industry negligence. The United Kingdom, with three times the deep miners of the U.S., has a fatality rate one-quarter that of the U.S. The specifically named Coal Mine Health and Safety Act of 1969, which begins "The first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner," constitutes a congressional acknowledgement that deep mine operators have been remiss. Its feeble implementation—since 1971 \$6.3 million in fines have been assessed by the Bureau of Mines, \$5.2 million affirmed, but only \$.8 million collected from violators—is continuing evidence of recalcitrance to apply existing technology that could make deep mines safe today. Why the recalcitrance? Deep mine operators are being hard-pressed by competition from cheaper strip mined coal, and cannot stay in business if they spend the money to make the mines safe. The "captive" mines owned by U.S. Steel which has a strong economic interest in avoiding interruption-causing mine fatalities, has a rate of .08 fatalities per million man hours, as compared to the national average of 1.02 per million man hours. Deep mine safety is a matter of economics. Increased strip mine competition will further impede enforcement of the 1969 Health and Safety Act.

BLACK LUNG CAN END

Dr. Lorin Kerr, Director, Department of Occupational Health, United Mine Workers of America, who has studied the relationship of black lung disease to underground coal mine dust levels, reports that 75 percent of underground coal mine dust levels are now below the limit set by law, 3 milligrams of dust per cubic meter. He estimates that 45 percent are already below the 2 milligram level, and that achievement of the 1 milligram limit would essentially wipe out black lung in one generation.

A report on Australian experiences in coal dust suppression by T. M. Clark, chief mining engineer of the Joint Coal Board of Sydney, says that by 1947 black lung compensation was threatening the economic viability of some sections of the industry. "Control measures subsequently introduced have been so successful that the medical branch of the Joint Coal Board now advises that for practical purposes no new cases of pneumoconiosis are being produced." Again, deep mine health technology exists and works. Continued strip mining cannot be justified by citing poor deep mine health records.

THE QUESTION OF JOBS

No one contends that a ban on strip mining would not create a problem of job resettlement. In 1969 approximately 22,000 men were employed in coal strip mines, and 99,000 in deep coal mines. Most strip mines employ skills that are suited to land engineering projects in general: highway construction, housing construction, public works

projects—all would be sources of employment that could absorb former strip miners with little or no retraining. The increased demand for deep mine production that would result from a ban on strip mined coal would create many jobs. In 1969 the deep mine productivity average was 15.61 tons per man per day while in strip mines it was much higher, 35.71 tons per man per day. This difference in productivity means the job potential in deep mines is much greater than it is in strip mines. Most deep mines now operate on a two shift, five-day-a-week schedule. While new deep mines would be opening following a ban on stripping, during a 30-month adjustment period, a three-shift, six-day work schedule would provide an additional 150 million tons of coal annually—as well as thousands of new jobs. The Conservation Foundation estimates that 10,000 men could be absorbed by the deep mining industry following a contour strip mining ban. The long term employment potential of the mining industry will be in danger if low-employment strip mines continue to cause the closing of high-employment deep mines. Conversely, a ban on strip mining would create thousands of long term job opportunities for miners.

Another source of new employment could be projects to reclaim the abandoned strip mined lands that the Department of Interior estimates now total 922,500 acres in the Appalachian states alone. Since reclamation involves many of the same skills and equipment used in the original stripping activity, little retraining or capital investment would be required. The job question, then, is a matter of resettlement and training rather than unemployment.

WHAT CAN YOU DO

A tough legislative battle looms in Congress, with House and Senate Interior Committee action expected in early 1972. Support the Coalition Against Strip Mining in its legislative efforts by writing or visiting your Congressman and Senator.

ANOTHER EXPLOITATION OF APPALACHIA

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, exploration for oil and gas in eastern Kentucky has uncovered vast amounts of fuel reserves never before touched. Many of the coal companies associated with the devastating strip mine process have fallen into oil-gas ownership and will once again take advantage of the Appalachian people under the authority of the infamous broad-form deed.

With this unending race for energy sources, the same few people are getting rich and the same masses are getting nothing but devastation, trouble, and heartbreak.

For the benefit of the Members and the public in general, I insert the following article by Mr. Phil Primack which appeared in the November 22, 1971, issue of Nation:

OIL IN THE HILLS—SECOND RAPE OF APPALACHIA (By Phil Primack)

(NOTE.—Mr. Primack works with the Mountain Eagle in Whitesburg, Ky. He also does free-lance photo-journalism in eastern Kentucky.)

Coal still reigns as monarch in eastern Kentucky, but some blood relatives are quietly moving in. Even while coal production (and injuries) continues at record levels,

mostly from the cancerous spread of surface mining, exploration for oil and gas has uncovered a vast and mostly untapped fuel reservoir. In fact, a spokesman for the Kentucky Geological Survey was prompted to note, "Acre for acre, both the gas and oil deposits in eastern Kentucky are of the same order as those of the Louisiana-Texas Gulf coast."

That may be great news for a nation whose power supplies are allegedly dwindling, but for many eastern Kentucky mountaineers it means little more than a new innovation in the delivery of industrial grief. For them, the movement of gas and oil development into their hills and hollows is a near replay of history—somebody from the outside with a lot of money again wants something they're sitting on. Most mountain folks do not control their "material rights," that valuable asset so eagerly sought for "development." Those rights were signed away, usually with an "X," for pennies an acre at the turn of the century when coal company lawyers convinced mountaineers to sign the infamous "broad-form deed." Thrice upheld by the Kentucky Court of Appeals, it gave the purchaser rights to coal, oil, gas "and other minerals" and "access thereto" beneath the surface of the signer's property.

In practice, the broad-form deed cleared the way for massive destruction of the land and the people of eastern Kentucky. Over the years, small coal firms bought or leased mineral rights from the big corporations and began to machine their way through the protests and anger of landholders. "I'm sorry that that's your corn patch, buddy. But this here deed says I got access to the coal (gas, oil, brine, etc.) under it. Now kindly step aside and let my 'dozer through."

With few exceptions, those 'dozers have gone through. A few mountaineers have successfully stood them off with shotguns, but with the courts, law and, ultimately the firepower on industry's side, most people have been sufficiently intimidated to back off and let their homeland be torn apart, getting at best a token payment or pittance royalty in return.

Now, seventy or eighty years after the coal men first arrived, those same tainted documents are being used to suck out newly found oil and gas from beneath the coal. Today, a bulldozer clearing a gash up an eastern Kentucky mountain is not necessarily opening a strip mine; there's a good chance it is clearing the way for a gas transmission line—headed for somewhere like Pittsburgh with another piece of eastern Kentucky.

No one is quite certain just how much oil and gas there actually is. The only truly organized research has been made by the oil and gas firms, and they don't talk. Also, only recently have the larger, better financed firms arrived on the exploration scene.

Nevertheless, even without accurate figures, it is easy to see that a new fuel bonanza is indeed in the making. All you need to do is drive around. Elk Creek and Bull Creek, Millstone and Carcassone in Letcher County, are dotted with wells and pipelines. In Knott County, 6-inch lines run right along Ky. #80. Tanker trucks are parked in Floyd County. Throughout the mountains, occasional 100-foot columns of thick, acrid smoke mark where the excess oil in gas transmission lines is being burned off, to the rage of neighbors.

Truly extensive drilling got under way in Letcher County around 1968. In that year, according to the annual report of the state's Department of Mines and Minerals, Letcher's oil production was 112,792 barrels. One year later, the figure had more than doubled, to 257,792 barrels. And critics of the state agency contend that, since it relies primarily on voluntary declarations by the industry, annual report figures are probably low.

The jump in oil production is the more significant because, by the industry's own accounts, most of the activity has been for

natural gas, with oil an auxiliary consideration for the moment. (That has meant more than \$800,000 in "secondary" income to oil and gas firms working in Letcher County alone.)

Oil and gas come up from the ground together. So a cylindrical device called a separator is attached to the well pump. It sends gas directly into the pipelines and moves the oil into large storage tanks on the drilling site. As many as six or seven of these tanks are clustered together on some hillsides; they are emptied daily.

Production figures for natural gas are harder to come by. Says the state's Gas and Oil Division, "These figures are not required to be reported to the Commonwealth of Kentucky (one reason being that the state has no severance tax whatsoever—a mild issue in this year's gubernatorial contest). It is thus necessary to turn to federal records for information. Unfortunately, these are broken down into fuel zones, in addition to states, with no further subdivision, such as counties. Nonetheless, the 1970 Minerals Yearbook of the U.S. Department of the Interior ranks Kentucky twelfth in gas production, with a gross of roughly \$25 million. But how much of that derives from eastern Kentucky and how much from the more established western Kentucky field is not specified.

On this point, Kentucky West Virginia Gas Co., one of the most active firms in the mountains, supplies a clue. A company official has said that "as much as 70 to 80 per cent of gas produced in Kentucky comes from eastern Kentucky now." And, according to the Kentucky Geological Survey, total 1969 gas production in the state was 73.5 billion cubic feet.

Kentucky West Virginia has refused to designate the exact sources of its production. "We'll gladly provide area-wide statistics," an official told *The Mountain Eagle*, the Letcher County weekly which first called attention to the new fuel strike, "but not specific county figures." He explained, "We just don't want to give trade secrets away. We're not the only people in the field." There is one specific county figure: at latest report, the company paid less than \$18,000 in taxes to Letcher County.

Kentucky West Virginia is not an independent firm. It is wholly owned by the Equitable Gas System, based in Pittsburgh. Equitable's president, J. T. Brown, has high hopes for his stockholders' eastern Kentucky investment. In his 1970 report, Brown mentioned an agreement between his and other firms "to explore the gas producing horizons of the company's acreage in Kentucky." An exploratory well will reach a depth of 12,500 feet, "at an estimated cost of between \$550,000 and \$650,000." Signal Oil and Gas, a large Los Angeles-based operation, "has the major participating interest."

The real significance of this well, as Brown noted, is that Equitable's "approximately 1 million acres in eastern Kentucky have never been drilled to this contemplated depth." He concluded with elegant understatement, "We are looking forward with interest to the results."

Further evidence of how eastern Kentucky lures the fuel conglomerates comes from the 1970 annual report of the Signal Companies. Among other things, Signal owns Mack Trucks, but despite the immense presence of those road-wrecking vehicles in the Kentucky mountains, it is another Signal subsidiary—Signal Oil and Gas—that is about to move in. Having shed some of its operations, that company, says the report, "is now able to concentrate almost exclusively on the exploration and production of crude oil and natural gas. . . ." It adds, the company in 1970 "continued to improve its acreage position in the southeastern United States—one of the most promising areas of the country" (my emphasis).

Within that most promising area, the Ken-

tucky mountains figure high. "Seismic and gravity detail have been completed in Kentucky, where Signal is acquiring a 40 per cent interest in more than one million acres."

The consensus is that the real finds do lie deep, that what has been tapped thus far is the rich frosting. One Letcher County well reportedly made a 40-million-cubic-foot hit at about 7,500 feet. And up in Pike County, Signal Gas and Oil has already drilled that exploratory well to 12,500 feet. No findings have been publicly released.

Dr. Edward A. Wilson of the Geological Survey told the *Eagle* last fall: "Deep exploration in eastern Kentucky is in its infancy. But it's ready to take off." He added that he would "definitely recommend" that oil and gas firms move into the region. They're doing just that.

In many cases, though, the oil and gas operations are appearing in the form of coal companies, quietly completing the energy marketing circle. Congress and others have been alarmed of late by the trend of huge oil conglomerates to buy out coal companies and their reserves. The Senate Subcommittee on Antitrust and Monopoly, chaired by Sen. Philip Hart, conducted hearings more than a year ago to consider "Competitive Aspects of the Energy Industry." Testimony revealed the extent to which oil conglomerates have taken over coal, placing themselves in the position, admirable for them, of owning their competition. Of the nation's top ten coal companies, only two are owned independently. Nearly 20 per cent of all coal produced nationally is at present under the direct control of two oil giants, Continental and Occidental.

Even the laggard Federal Trade Commission which, after all, allowed most of the mergers in the first place, is expressing retroactive concerns. House hearings were begun in the middle of July by a Small Business Subcommittee chaired by Rep. Neal Smith (D., Iowa). Smith is continuing his investigation, probing the monopolistic impact of the conglomerates on small business.

Thus, many of the coal companies associated with eastern Kentucky's bleak history are falling into oil-gas ownership. It means that Appalachian Kentucky, abused for decades by these coal concerns, is being dragged into oil and gas exploitation without missing a scoop. It means that the same few folks are getting rich and the same many folks are losing out—once again.

Some people in the area argue that, as an industry, oil and gas is preferable to coal. Drilling is far less destructive than strip mining and it certainly presents less of an occupational hazard than does coal mining. But very few local people are employed at all by the gas-oil combines; even the scant return offered the region by pay checks for coal is absent.

Further, since the new fuel miners utilize the same infamous broad-form deeds, the private landholders still have virtually no legal or financial redress. The going rate for having a pipeline laid right through your valuable bottomland is \$1 a rod—barely 6¢ a foot. If a well is actually drilled on your surface, and it hits a good strike, you may also receive a royalty payment. The catch there is how much and on what. Kentucky West Virginia claims it pays the landowner "one-eighth of the wholesale price of the gas or oil at the wellhead," but people affected report that they've been unable to get any kind of satisfactory settlement, let alone that much (wellhead quantities and values are conveniently determined by the company itself).

Joe and Susan Haynes live down on Bull Creek on the Letcher-Perry County border. Toward the end of 1968 they were approached by a lawyer for Kentucky West Virginia. "The man said they were going to drill a well on our land, and he said they had a right to do that. He promised they wouldn't bring any machinery on the place," Mrs. Haynes re-

called. Since then, the Hayneses claim, their best land has been torn up by pipeline and a well, and their creek contaminated, killing some fifty hens who drank from it. "And we ain't yet received a penny," said Joe Haynes.

His wife continued: "Once, two lawyers come back and says they'd leave this paper, like it was a big deal to get our four heirs to sign it. One asked the other what the most they could pay us was, and he says '\$60.' I said our boys wouldn't sign for that, for \$15 apiece. I burnt the paper when they left."

After that, she said, "they didn't ask us any more," and moved onto the land. Finally, the family was offered "about \$300." Joe Haynes, whose black lung prevents him from working, is incredulous that "they can stand there tellin' us that \$300 is all we can get for all the damage they done here."

The gas company claims that "in 99 per cent" of their dealings they reach "satisfactory settlements," and that the Hayneses are "obstinate" exceptions. If the firm is right, the unsettled 1 per cent must be vocal far beyond their numbers, for tales of land and water damage done by oil and gas rigs abound throughout the countryside.

Of course, many people have settled and will continue to settle, just as they have with the strip miners. They need that money, and usually have no other place to get it. "My wife, she was real sick, needed that operation bad," explained one 66-year-old man who signed for \$300 with the gas company. "Oh, that branch is pitiful now" he said, pointing to the water flowing in front of the house. "Been that way ever since they come in. Now it's just filled with washout from that well. Destruction, I call it. That's all it is."

As a result of gas and oil damage, as well as the continuing outrages of strip and auger mining, residents of the lower end of Letcher County have organized into the "Citizens' League to Protect the Surface Rights." Chairman Joe Begley claims "there's little difference between those oil companies and the strippers. They both come in here tellin' us that they want somethin', and that they're gonna take it, and to hell with us."

Begley and others throughout the mountains hope that the course of the exploitation sweepstakes can be altered before the oil-gas combines get too firmly implanted, but they're not particularly optimistic. Without financial backing, and with the law and the government officials seemingly aligned against him, the average mountaineer—who more than anything else just wants to be left alone—appears to be in for it again.

PRESIDENT VETOES ECONOMIC OPPORTUNITY AMENDMENTS OF 1971

(Mr. EDWARDS of Alabama asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of Alabama. Mr. Speaker, I want to commend President Nixon for his courageous decision yesterday in vetoing the Economic Opportunity Amendments of 1971. It was a decision based on a logical and responsible concern for all Americans, not just a select few.

Of primary significance is the fact that his decision to veto this legislation was based, not on a desire to simply satisfy the needs of all Americans, but to satisfy those needs through the implementation of a sound fiscal as well as an administratively workable program—a program which would not sacrifice the spirit of family unity within our society.

Progress in these areas would be sharp-

ly curtailed were this legislation ever to be approved.

Under the language of the legislation, as it was drafted and sent to the President, there was a noticeable lack of allowances for administrative discretion, there were fiscal inconsistencies and there was a question as to public acceptance of its principles.

The President's nine specific objections, as outlined in his veto message, were consistently logical and conceived from a sincere concern for the total welfare of the Nation. They could not be considered otherwise.

The President deserves a special measure of praise for standing up against the onslaught of fiscal irresponsibility and administrative incohesiveness spelled out in the provision calling for the establishment of an adolescent dependency program.

I am completely in accord with the need for all American children to realize a healthful and stimulating upbringing. But, this can be accomplished without sacrificing our American tradition of pursuing a parent's right to supervise and care for children.

As the President stated in his veto message, "we cannot and will not ignore the challenge to do more for America's children in their all-important early years." But, we cannot do so at the risk of losing, for generations to come, the spirit of family unity which represents the cornerstone of our free society.

Mr. Speaker, if this provision should become law, I believe that the regimentation of our society which would follow would signal the downfall of a very cherished American virtue—the happiness and strength nurtured by the security of family love and unity. We must never allow such a dogmatic experience to permeate our lives or the lives of our children and our children's children.

Mr. Speaker, I applaud the President for vetoing this bill. I will vote to sustain the veto when the matter comes back to the House.

OPPOSE U.S. MILITARY INVOLVEMENT IN INDOCHINA

(Mr. FLYNT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FLYNT. Mr. Speaker, in the event anyone has the mistaken notion that there are no serious-minded, conservative Americans who oppose indefinite continuation of the U.S. military involvement in Indochina, I think it is well to take a look at an event which recently took place at the Georgia Institute of Technology, Atlanta, Ga.

Historically and traditionally the student body at Georgia Tech has been conservative in economic and political views. I remember the Georgia Tech participation in "Affirmation Vietnam" sponsored by a statewide student movement in Georgia in which I and, to the best of my recollection, every member of the Georgia delegation in Congress participated, and the Secretary of State of the United States was the principal speaker.

On only two occasions in recent years has the Georgia Tech student government organization turned its attention toward national political affairs.

First, in 1966, the student council voted to endorse "Affirmation Vietnam," an effort by students across Georgia to express support of the United States commitment in Vietnam at that time.

Second, on December 10, 1971, I received a letter from Mr. Chris Bagby, student body president, advising me that the student council at Georgia Tech has voted to a resolution expressing opposition to the war in Vietnam on an "out now" basis along with a request for immediate withdrawal of U.S. troops.

I am personally acquainted with many Georgia Tech students on an individual basis. I am also well acquainted with them on a student body basis, having worked rather closely with Georgia Tech's students and participated in a series of student sponsored programs.

Mr. Speaker, as a part of my remarks I include a letter from Chris Bagby, student body president, Georgia Tech, and the text of the resolution adopted by the Georgia Tech student council.

GEORGIA TECH STUDENT GOVERNMENT,
Atlanta, Ga., December 6, 1972.

HON. JOHN J. FLYNT JR.,
Member of Congress, Rayburn House Office
Building, Washington, D.C.

DEAR CONGRESSMAN FLYNT: The Georgia Tech Student Government has turned its attention to national political affairs on only two occasions in recent years.

In 1966, the Student Council voted to endorse the "Affirmation; Vietnam" movement, an effort by students across Georgia to express support of the United States' commitment in Vietnam at that time.

At a meeting this quarter, however, the Student Council voted to adopt a resolution expressing opposition to the war in Vietnam and endorsing the November 6 peace demonstrations which occurred in Atlanta and sixteen other cities of the United States. As you know, the theme of the demonstration was "OUT NOW," a request for immediate withdrawal of the U.S. troops.

This action by such a traditionally conservative body as the Georgia Tech Student Council, in contrast to its previous policy of support for the Vietnam commitment, demonstrates to me that the time has come when most Americans feel that there is nothing more to be gained by continued military involvement in the Vietnam War, and that our men stationed there should be brought home immediately.

Enclosed is a copy of the resolution which was adopted. It is our hope that it will influence your voting and hasten the end of the Vietnam War.

Yours truly,

CHRIS BAGBY,
Student Body President.

A RESOLUTION RELATIVE TO STUDENT CONCERN FOR THE WAR IN SOUTHEAST ASIA

Whereas, the mission of Georgia Tech includes assisting the student in the cultivation of a critical awareness and perspective on the perennial evaluative issues that confront man, as an individual and as a member of a complex social order, and preparing him to participate in the resolution of the scientific and technological issues of our time; and

Whereas, the tragic war in Southeast Asia persists as a major concern of the United States and its citizens; and

Whereas, November 3 will be observed on many campuses across the nation as a day for expressing opposition to the war in

Southeast Asia and calling for a halt to the bombing and the withdrawal of all United States troops; and

Whereas, a peaceful, legal, non-confrontational demonstration against the war will occur in Atlanta and in sixteen other cities of the United States on November 6; and

Whereas, it is the desire of the students of Georgia Tech to have peace both within the nation and throughout the world;

Now, therefore be it resolved by the Student Council of the Georgia Institute of Technology that November 3, 1971 be observed on the Georgia Tech campus as a day for expressing opposition to the war in Southeast Asia; and

Be it further resolved that members of the Georgia Tech faculty be requested to devote a portion of the classtime on that day for serious and critical discussion of the war issue by students and faculty, particularly as it relates to the programs of learning of Georgia Tech; and

Be it further resolved that the Student Council express its support for the peaceful demonstration against the war in Southeast Asia occurring in Atlanta on November 6, 1971, urging all students to participate in the demonstration.

Adopted by the Georgia Tech Student Council, November 2, 1971.

THE 1972 BIRMINGHAM FESTIVAL OF ARTS

(Mr. BUCHANAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, when Birmingham was named an "All America City" by the National League of Municipalities and Look magazine in March of this year, the city's flourishing Festival of Arts program was cited as one of the principal reasons for this honor.

As Birmingham's representative in the Congress, I certainly share the great pride which its citizens have in the Festival of Arts and want to take this opportunity to share some of the excitement of this event with my colleagues.

The Festival of Arts program is America's oldest continuous arts festival, which for 21 years has been dedicated to the conviction that through the unity of the arts, nations and men can become united. A different country is saluted by the festival each year, with dignitaries, cultural displays and performing artists from that country giving the festival a delightful international flavor. The busy festival schedules are filled with concerts, dramas, operas, ballets, and special exhibits of painting, sculpture and crafts.

In previous years, the festival has honored: Japan, France, Latin America, The Netherlands, Mexico, Belgium, Sweden, Scandinavia, Greece, Italy and Great Britain. In this way, the festival's activities have stimulated a unity between Birmingham's native citizens and those of foreign descent.

The 22d Annual Festival of Arts, to be held from February 25 through March 12, 1972, will salute the United States in an attempt to find unity and reconciliation for Americans through the arts. Events planned for the 1972 festival include appearances by music, drama, and art groups from throughout the United States.

Some of the announced activities in-

clude: A "Montage of Black Culture," music-drama by the Alabama Center for Higher Education, a consortium of nine black Alabama colleges; presentations of "West Side Story" and "Oklahoma"; an exhibit of five American painters, 1872-1972; a black artists' show; Mary Costa with the Birmingham Symphony Orchestra, directed by Amerigo Marino; David Amram, American composer and conductor; a major sculpture exhibit; Richard Tucker; three American operas; a William Frye exhibit; and Edward Vilella.

Focal point of the festival, as always, will be the International Fair, to be held for the first time in the Exhibition Hall of the city's new civic center. Throughout the city, store windows, building lobbies, sidewalks and parking areas will display examples of Americana throughout the festival.

Anyone who has ever participated in Birmingham's Festival of Arts can easily understand why it has come to be known around the world. For several years, the National Association of Travel Organizations has chosen the festival as one of the 20 top travel events in America for the month in which the event occurred.

The outstanding success of this event has also been amply attested to by the large number of people who come from near and far to participate in it. In 1971, more than a quarter of a million people enjoyed the Festival of Arts' Salute to Spain.

Into any successful event must, of course, go a great deal of time and effort. The hundreds of hours and thousands of dollars which the citizens of Birmingham give toward the Festival of Arts are also a source of pride for me and I could not discuss the festival without expressing my personal gratitude for these significant contributions. Leading the work which is already well underway for the 1972 festival are Mr. L. R. Jordan, president of next year's festival and Mrs. William B. Scott, chairman.

Mr. Speaker, I feel that my words cannot adequately convey the special excitement of the Festival of Arts. It is my hope, therefore, that many of my colleagues in the Congress and people throughout the United States can visit Birmingham during the 1972 festival and see for themselves. Without hesitation, I can promise that such a visit will be a most enjoyable and rewarding experience.

NATIONAL LEGAL SERVICES CORPORATION

(Mr. STEIGER of Wisconsin asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. STEIGER of Wisconsin. Mr. Speaker, in view of the President's veto message on the Economic Opportunity Amendments of 1971, S. 2007, Mr. DELLENBACK and I are today introducing a bill containing word-for-word the sections of S. 2007 relating to the establishment of an independent National Legal Services Corporation.

The legal services portion of the con-

ference bill was a painstakingly constructed compromise that represents a full year of effort on the part of hundreds of people. That work must not be lost.

To salvage the National Legal Services Corporation legislation, the new bill just filed is in every respect identical to title IX and the related sections of title X of the conference bill, S. 2007.

It is the fervent hope of Mr. DELLENBACK and myself that this legislation will be supported by both Houses again, without change.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MOSS, for period from December 13 through December 19, 1971, on account of official business.

Mr. BOW (at the request of Mr. GERALD R. FORD), for today, on account of official business.

Mr. RANGEL (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. CORMAN, for Friday, December 10, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. KASTENMEIER, for 60 minutes, on Monday, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. DU PONT), to revise and extend their remarks, and to include extraneous matter:)

Mr. HOSMER, today, for 10 minutes.

Mr. FINDLEY, today, for 5 minutes.

Mr. SANDMAN, today, for 15 minutes.

Mr. HOGAN, today, for 10 minutes.

Mr. KEMP, today, for 15 minutes.

Mr. BROWN of Ohio, today, for 5 minutes.

(The following Members (at the request of Mr. CURLIN) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. GRIFFIN, for 5 minutes, today.

Mr. RARICK, for 15 minutes, today.

Mr. FURQUA, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 5 minutes, today.

Mr. ALEXANDER, for 45 minutes, on December 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROUSSELOT to extend his remarks following those of Mr. LANDGREBE in the Committee of the Whole today.

Mr. RYAN and to include extraneous matter in remarks made in Committee of the Whole after the vote on the Badillo amendment and prior to the offering of the Landgrebe amendment.

Mr. HANNA and to include certain extraneous material he referred to during his remarks made in Committee of the Whole.

Mr. SIKES in five instances and to include extraneous material.

Mr. GROSS to extend his remarks immediately preceding final vote on H.R. 11309, the so-called Economic Stabilization Act.

Mr. MILLER of California in five instances and to include extraneous matter.

Mr. PUCINSKI to include extraneous matter during debate on Economic Stabilization Act.

(The following Members (at the request of Mr. DU PONT) and to include extraneous matter:)

Mr. REID of New York.

Mr. WYMAN in two instances.

Mr. HUNT.

Mr. FORSYTHE in two instances.

Mr. ARENDS in two instances.

Mr. KUYKENDALL.

Mr. BOB WILSON.

Mr. DERWINSKI.

Mr. CHAMBERLAIN.

Mr. ROBISON of New York.

Mr. FISH.

Mr. DUNCAN.

Mr. KEMP in two instances.

Mr. MOSHER.

Mr. THOMPSON of Georgia.

Mr. ANDREWS of North Dakota.

(The following Members (at the request of Mr. CURLIN) and to include extraneous material:)

Mr. BRASCO.

Mr. GONZALEZ in two instances.

Mr. HAGAN in three instances.

Mr. RARICK in three instances.

Mr. DINGELL in two instances.

Mr. KLUCZYNSKI in two instances.

Mr. FOUNTAIN.

Mr. VANIK in two instances.

Mr. O'HARA.

Mr. ROGERS.

Mr. DANIELS of New Jersey in three instances.

Mr. WALDIE in four instances.

Mr. BROOKS.

Mr. DRINAN.

Mr. SCHEUER in three instances.

Mr. BEGICH in five instances.

Mr. JACOBS in two instances.

Mr. BEVILL.

Mr. GRIFFIN in three instances.

Mr. BOGGS.

Mr. KYROS in four instances.

Mr. CABELL.

Mr. ROY.

Mr. CULVER.

Mr. MOSS in five instances.

Mr. PUCINSKI in six instances.

Mr. ZABLOCKI in two instances.

Mr. HARRINGTON in four instances.

Mr. GAYDOS in three instances.

Mr. SMITH of Iowa in three instances.

Mr. HECHLER of West Virginia in three instances.

Mr. WOLFF.

Mr. DIGGS in two instances.

Mr. O'NEILL.

Mr. OBEY in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 36. An act to preserve and promote the resources of the Connecticut River Valley,

and for other purposes; to the Committee on Interior and Insular Affairs.

S. 889. An act to restore the postal service seniority of Elmer Erickson; to the Committee on Judiciary.

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement; to the Committee on Post Office and Civil Service.

S. 2677. An act to authorize programs in the District of Columbia to combat and control the disease known as sickle cell anemia; to the Committee on the District of Columbia.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 10947. An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

ADJOURNMENT

Mr. CURLIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Monday, December 13, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1351. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend section 203 of title 37, United States Code, to provide additional pay for permanent professors at the U.S. Military Academy and the U.S. Air Force Academy; to the Committee on Armed Services.

1352. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

1353. A letter from the Comptroller General of the United States, transmitting a report on the need for coordinated consideration of buy-national procurement program policies by the Office of Management and Budget; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE of Illinois: Committee on Standards of Official Conduct. H.R. 11453. A bill to provide for disclosures designed to inform the Congress with respect to legislative measures, and for other purposes (Rept. No. 92-741). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 8730. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes;

with an amendment (Rept. No. 92-742). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 10086. A bill to provide for increase in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes; with an amendment (Rept. No. 92-743). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 12180. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on fuels containing sulfur and on certain emissions of sulfur oxides; to the Committee on Ways and Means.

By Mr. ALEXANDER:

H.R. 12181. A bill to eliminate television blackouts in the case of certain soldout games; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL of Virginia:

H.R. 12182. A bill to eliminate the ceilings on the amounts of group life insurance policies available in the District of Columbia; to the Committee on the District of Columbia.

H.R. 12183. A bill to amend section 62 of the Internal Revenue Code of 1954 to provide that amounts which the taxpayer pays as alimony or separate maintenance shall be deductible from his gross income in determining adjusted gross income; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 12184. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on Ways and Means.

By Mr. COLLIER:

H.R. 12185. A bill to amend the Occupational Safety and Health Act of 1970 to exempt any nonmanufacturing business, or any business having 20 or less employees, in States having laws regulating safety in such businesses, from the Federal standards created under such act; to the Committee on Education and Labor.

By Mr. DINGELL (for himself, Mr. PELLY, Mr. KARTH, Mr. MAILLIARD, Mr. WILLIAM D. FORD, Mr. DU PONT, Mr. McCLOSKEY, Mr. NEDZI, Mrs. GRIFFITHS, Mr. MOSS, Mr. PICKLE, Mr. O'HARA, Mr. GARMATZ, Mr. KEITH, Mr. LENNON, Mr. RUPPE, Mr. DOWNING, Mr. GOODLING, Mr. ROGERS, Mr. LEGGETT, Mr. ANDERSON of California, Mr. FORSYTHE, Mr. KYROS, and Mr. TIERNAN):

H.R. 12186. A bill to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FORSYTHE:

H.R. 12187. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. FULTON of Tennessee:

H.R. 12188. A bill to amend the Railroad Unemployment Insurance Act to provide that active service in the Armed Forces or the National Guard, performed by an individual during his base year, will be counted in determining such individual's qualification for benefits thereunder; to the Committee on Interstate and Foreign Commerce.

By Mrs. GRASSO:

H.R. 12189. A bill to amend section 109 of title 48, United States Code, to provide benefits for members of the Armed Forces of na-

tions allied with the United States in World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. GUDE:

H.R. 12190. A bill to protect collectors of antique glassware against the manufacture in the United States or the importation of limitations of such glassware; to the Committee on Interstate and Foreign Commerce.

By Mr. HOGAN:

H.R. 12191. A bill to exclude the personnel records of officers and members of the Metropolitan Police Department of the District of Columbia from public records; to the Committee on the District of Columbia.

By Mr. KEMP (for himself, Mr. CONABLE, and Mr. DULSKI):

H.R. 12192. A bill to authorize a program for the improvement and restoration of the Buffalo River Basin; to the Committee on Public Works.

By Mr. PEYSER:

H.R. 12193. A bill to amend the Urban Mass Transportation Act of 1964 to make it clear that a mass transportation system must include provision for meeting the special needs of the elderly in order to qualify for financial assistance thereunder; to the Committee on Banking and Currency.

By Mr. RARICK:

H.R. 12194. A bill to establish the President's Award for Distinguished Law Enforcement Service; to the Committee on the Judiciary.

By Mr. ROUSSELOT:

H.R. 12195. A bill to provide for a balanced Federal budget, regular reports by a Taxpayers' Advocate to the Congress and American people on the status of the public debt, and the reduction of that debt on an annual basis; to the Committee on Ways and Means.

By Mr. SAYLOR (for himself, Mr. HOSMER, Mr. SKUBITZ, Mr. KYL, Mr. MCCLURE, Mr. DELLENBACK, and Mr. McKEVITT):

H.R. 12196. A bill to authorize appropriations for additional costs of land acquisition for the national park system; to the Committee on Interior and Insular Affairs.

By Mr. SAYLOR (for himself and Mr. DENT):

H.R. 12197. A bill to provide that Federal expenditures shall not exceed Federal revenues, except in time of war or grave national emergency declared by the Congress, and to provide for systematic reduction of the public debt; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin (for himself and Mr. DELLENBACK):

H.R. 12198. A bill to amend the Economic Opportunity Act of 1964 to authorize a legal services program by establishing a National Legal Services Corporation, and for other purposes; to the Committee on Education and Labor.

By Mr. STRATTON (for himself and Mr. TERRY):

H.R. 12199. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, N.Y., out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower; to the Committee on Appropriations.

By Mr. STRATTON:

H.R. 12200. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. ULLMAN (for himself and Mr. BETTS):

H.R. 12201. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of net operating losses of regulated transportation corporations; to the Committee on Ways and Means.

By Mr. WALDIE (for himself, Mr. DULSKI, Mr. DANIELS of New Jersey, Mr. BRASCO, Mr. SCOTT, Mr. HOGAN, and Mr. HILLIS):

H.R. 12202. A bill to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WOLFF (for himself and Mr. PEYSER):

H.R. 12203. A bill to authorize an investigation and study of coastal hazards from offshore drilling on the Outer Continental Shelf in the Atlantic Ocean; to the Committee on Interior and Insular Affairs.

By Mr. SAYLOR (for himself and Mr. DENT):

H.J. Res. 1004. Joint resolution proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds deficits; to the Committee on the Judiciary.

By Mr. HARRINGTON (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. ANDERSON of Tennessee, Mr. ASPIN, Mr. BADILLO, Mr. BELL, Mr. BEGICH, Mr. BIESTER, Mr. BRADENAS, Mr. BURKE of Massachusetts, Mr. CHAPPELL, Mrs. CHISHOLM, Mr. CLAY, Mr. COLLINS of Illinois, Mr. CONTE, Mr. CORMAN, Mr. COUGHLIN, Mr. DELLENBACK, Mr. DENHOLM, and Mr. DIGGS):

H. Res. 736. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself,

Mr. DOW, Mr. DRINAN, Mr. DU PONT, Mr. ECKHARDT, Mr. EDWARDS of California, Mr. EDWARDS of Louisiana, Mr. EILBERG, Mr. ESCH, Mr. FORSYTHE, Mr. FRENZEL, Mrs. GRASSO, Mr. GRAY, Mr. HALPERN, Mr. HAMILTON, Mr. HATHAWAY, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, and Mrs. HICKS of Massachusetts):

H. Res. 737. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. HORTON, Mr. HUNGATE, Mr. KEATING, Mr. KEMP, Mr. LEGGETT, Mr. McCLOSKEY, Mr. MCCOLLISTER, Mr. MCCORMACK, Mr. MCCULLOCH, Mr. MC KINNEY, Mr. MACDONALD of Massachusetts, Mr. MATSUNAGA, Mr. MAZ-ZOLI, Mr. METCALFE, Mr. MIKVA, Mrs. MINK, Mr. MITCHELL, Mr. MORSE, Mr. MOSHER, and Mr. MOSS):

H. Res. 738. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. PEPPER, Mr. PEYSER, Mr. PODELL, Mr. POWELL, Mr. RANGEL, Mr. REES, Mr. REID of New York, Mr. RIEGLE, Mr. RODINO, Mr. ROE, Mr. RONCALIO, Mr. ROSENTHAL, Mr. ROY, Mr. RUNNELS, Mr. RYAN, Mr. ST GERMAIN, Mr. SANDMAN, Mr. SCHEUER, Mr. SCHWENGEL, and Mr. SHOUP):

H. Res. 739. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. STEELE, Mr. STOKES, Mr. TEAGUE of California, Mr. THONE, Mr. TIERNAN, Mr. UDALL, Mr. ULLMAN, Mr. VANDER JAGT, Mr. WILLIAMS, and Mr. WOLFF):

H. Res. 740. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. THOMPSON of New Jersey:

H. Res. 741. Resolution providing pay comparability adjustments for certain House employees whose pay rates are specifically fixed by House resolutions; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DANIELSON:

H.R. 12204. A bill for the relief of Jay Alexis Calligdong Slaotong; to the Committee on the Judiciary.

By Mr. ICHORD:

H.R. 12205. A bill for the relief of Earl P. Dick; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 12206. A bill for the relief of William Karsten; to the Committee on the Judiciary.

SENATE—Friday, December 10, 1971

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord our God, in the mood of high expectation enable us to hear once again the call of the herald:

Repent . . . for the kingdom of heaven is at hand . . . Prepare ye the way of the Lord, make his paths straight . . . (Matthew 3: 2, 3)

Give us the wisdom and the will to respond by emptying our hearts of all that corrupts or mars the divine image, and all that separates us from Thee or from our fellow man. May the truth of these advent days penetrate our souls and saturate our society so that love replaces hate, generosity replaces selfishness, truth replaces falsehood, and peace replaces war. Come to us in all Thy renewing power that we may be born again to that higher life to which we have aspired but never yet attained. And to Thee shall be all Christmas glory and praise. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, December 9, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

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

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—VETO MESSAGE (S. DOC. NO. 92-48)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

I return herewith without my approval S. 2007, the Economic Opportunity Amendments of 1971.

This legislation undertakes three major Federal commitments in the field of social welfare: extension of the Economic Opportunity Act of 1964, creation of a National Legal Services Corporation, and establishment of a comprehensive child development program.

As currently drafted, all three proposals contain provisions that would ill serve the stated objectives of this legislation, provisions altogether unacceptable to this administration.

Upon taking office, this administration sought to redesign, to redirect—indeed, to rehabilitate—the Office of Economic Opportunity, which had lost much public acceptance in the five years since its inception. Our objective has been to provide this agency with a new purpose and a new role. Our goal has been to make the Office of Economic Opportunity the

primary research and development arm of the Nation's and the Government's on-going effort to diminish and eventually eliminate poverty in the United States. Despite occasional setbacks, considerable progress has been made.

That progress is now jeopardized. Two ill-advised and restrictive amendments contained in this bill would vitiate our efforts and turn back the clock.

In the 1964 act the President was granted authority to delegate—by executive action—programs of OEO to other departments of the Government. That flexibility has enabled this administration to shift tried and proven programs out of OEO to other agencies—so that OEO can concentrate its resources and talents on generating and testing new ideas, new programs and new policies to assist the remaining poor in the United States. This flexibility, however, would be taken away under amendments added by the Congress—and the President would be prohibited from spinning off successful and continuing programs to the service agencies.

If this congressional action were allowed to stand, OEO would become an operational agency, diluting its special role as incubator and tester of ideas and pioneer for social programs.

Secondly, the Congress has written into the OEO legislation an itemized list of mandatory funding levels for 15 categorical programs. This specific earmarking of funds for specific programs at OEO is genuinely reactionary legislation; it locks OEO executives into sup-