2. Which do you think is the best solution to the Vietnam war:
(a) Continue military operations at present level while pursuing further negotiations?, 28.6%.
(b) Immediate withdrawal?, 14.5%.
(c) Withdrawal contingent upon release of POW's?, 34.7%.
(d) Phased withdrawal of U.S. troops?, 22.2%.
3. Should unconditional amnesty be granted those individuals who have avoided meeting their military obligation by leaving the country or deserting from the armed services?
Yes, 18.3%.
No, 81.7%.
4. Do you favor the busing of school children to achieve racial balance?
Yes, 8.6%.
No, 91.4%.
5. Do you favor federal regulation of private pension plans to protect pension rights of employees?
Yes, 79.2%.
No, 20.8%.
6. Do you feel any of these can be effective in controlling crime:
(a) Increasing federal aid to states and localities for crime control programs?
Yes, 67.4%.
No, 32.6%.
(b) Enactment of stronger gun control laws?
Yes, 72.1%.
No, 27.9%.
(c) Building more correctional institutions and improving rehabilitation?
Yes, 77.9%.
No, 22.1%.
7. Do you support efforts to widen diplomatic and trade relations with China?
Yes, 82.0%.
No, 18.0%.
8. Do you feel the present wage-price-rent control program has been successful in combating inflation?
Yes, 34.2%.
No, 65.8%.
9. With the constitutionality of the property tax questioned as a means of financing public education, would you favor:
(a) Greater federal expenditures for schools?
Yes, 53.4%.
No, 46.6%.
(b) State assumption of responsibility for public education with a new system of financing?
Yes, 72.4%.
No, 27.6%.
(c) A national sales tax (value-added tax) for school revenues?
Yes, 47.7%.
No, 52.3%.
10. Health care costs are placing medical care out of the reach of millions of Americans. Would you favor:
(a) National health insurance for everyone financed by employer-employee contributions matched by the federal government under social security?
Yes, 67.2%.
No, 32.8%.
(b) Tax credits to purchase private insurance?
Yes, 46.8%.
No, 53.2%.
(c) Expansion of medicare and medicaid?
Yes, 61.6%.
No, 38.4%.
(d) A federal program to help pay catastrophic medical costs only?
Yes, 55.0%.
No, 45.0%.
11. Do you feel that greater federal efforts are necessary to reduce unemployment?
Yes, 67.6%.
No, 32.4%.
12. What do you believe are the principal problems facing our nation today? (The following are the problems most frequently cited and the percentage of response.)
Crime, 20.6%.
Vietnam, 11.9%.
Inflation, 10.4%.
Busing, 9.8%.
Unemployment, 8.8%.
Drugs, 7.0%.
Taxes, 6.2%.
Welfare, 5.5%.
Pollution, 2.7%.

MODERN MOMS ARE INDEPENDENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. DERWINSKI. Mr. Speaker, the Suburban Life Newspaper has a very interesting editorial page in which individual staff members give their viewpoints on any subject of special interest to them. Mrs. Sharon Windle, writing in the Suburban Life of September 14, discusses the attitude of a modern mother in what I believe is a very practical and sound fashion.

The editorial follows:

MODERN MOMS ARE INDEPENDENT

(By Sharon Windle)

Kids are like a pair of shoes. They're much more comfortable to have around after they've put on a little mileage.

I suppose after a preface like the above I needn't add that I'm not what you would call a Dr. Spock version of motherhood. To the impenetrable eye of the old-fashioned mother or the super-sensitive grandma. I, and others of my pattern, may appear at times, unconcerned, immobile, impatient and too strict. It is only because we are all of the above.

We are also honest. Many of us did a very inadequate job of role playing with our dollies as kids. Many of us as adults washed diapers only out of sanitary necessity; made formula because our offspring weren't born with a super set of molars to chop up a steak and walked through the park with a baby carriage because it was good for mommy and an airing for baby was an advantage too.

The biggest difference of opinion in the old way of child rearing and the new appears to be that the modern method places more value on the child himself as a human being with an individual personality. The old method treats kids as a possession to be disciplined and molded into a junior model of mom or dad.

The old method popularizes parental ego-expansion or ego-enforcement by using the child as a vehicle. How often have we heard, "She'll have all the opportunity I never had, or he'll get all the material things I could never afford as a kid." Wish for these unfilled childhood dreams of parents often cause them to demand regimented behavior from their offspring which is based on biases and misconceptions. Sadly, the end result is often alienation of the child.

It seems to me, and others who share my thinking, that the biggest responsibility of a parent is to recognize his or her shortcomings, prejudices and limitations and teach the child from that basic understanding.

It is necessary to realize that being a parent does not make you "right" and parenthood has less value when wielded as a bayonet than as a gesture of goodwill.

Too often the old-fashioned mommy is more concerned with the physical duties of mothering by which she judges herself and her peers judging the success of her role fulfillment than she is with the object of those efforts, the child himself.

Modern mothers don't seem to be so concerned with what others think of them as they are of the effects of their actions and the end results on the child himself.

There are among my peers some of the most powdered, pampered, fed-on-time, bedded-by-8 p.m.-promptly kids in the world, with the hungriest egos and weariest personalities.

I am less concerned with being a "good" mother than I am with mothering a "good" child. A child who will grow up into a world which, as I see it, could use some good kids to help straighten it out.

HOUSE OF REPRESENTATIVES—*Wednesday, September 20, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thus saith the Lord God; in returning and rest shall you be saved; in quietness and in confidence shall be your strength.—Isaiah 30: 15.

O God, who art the Creator and Sustainer of life, whose spirit keeps the planets in their courses and yet whose ear is ever attentive to the quiet whispers of our human hearts, we pause in silence before Thee praying for wisdom, strength, and patience as we endeavor to meet the needs of our beloved America and to lead our Nation in right and good paths.

O Lord, guide our people in choosing wisely her leaders. May our citizens grow in mature responsibility and together join hands with kindred spirits across the seas in daring to be pioneers in brotherhood, sustaining the principles of those who seek to end strife, and to usher in a new day of enduring peace to the glory of Thy holy name. 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.

RECOMMITTAL OF S. 1316, AMENDING FEDERAL MEAT INSPECTION ACT, TO COMMITTEE ON AGRICULTURE

Mr. ABBITT. Mr. Speaker, I ask unanimous consent that the bill (S. 1316) to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 percent the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, be recommitted to the Committee on Agriculture.

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

There was no objection.

APPOINTMENT AS MEMBERS OF COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

The SPEAKER. Pursuant to the provisions of section 602(b), Public Law 92–352, the Chair appoints as members of the Commission on the Organization of the Government for the Conduct of Foreign Policy the following members on the part of the House: Mr. ZABLOCKI, of Wisconsin; and Mr. MAILLIARD, of California and the following members from private life: Dr. Stanley P. Wagner, of Oklahoma; and Dr. Arend D. Lubbers, of Michigan.

PRINTING OF COMMITTEE PRINT ENTITLED "COURT PROCEEDINGS AND ACTIONS OF VITAL INTEREST TO THE CONGRESS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–1412) on the resolution (H. Res. 1087) to provide for the printing of a committee print entitled "Court Proceedings and Actions of Vital Interest to the Congress," and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 1087

Resolved, That there shall be printed one thousand copies of a committee print entitled "Court Proceedings and Actions of Vital Interest to the Congress" for the use of the Joint Committee on Congressional Operations.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING FOR USE OF COMMITTEE ON VETERANS' AFFAIRS

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–1413) on the resolution (H. Res. 1113) to provide for certain printing for use of the Committee on Veterans' Affairs of the House of Representatives, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 1113

Resolved, That there shall be printed concurrently with the original press run thirty-four thousand one hundred copies of an information sheet entitled "Summary of Benefits for Vietnam Veterans" for use of the Committee on Veterans' Affairs of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the concurrent resolution (H. Con. Res. 553) authorizing certain printing for the Committee on Veterans' Affairs, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 1, after line 9, insert:

"SEC. 2. After the conclusion of the second session of the Ninety-second Congress there shall be printed for the use of the Committee on Veterans' Affairs of the United States Senate twenty thousand copies of a publication similar to that authorized by the first section of this concurrent resolution, but with emphasis upon matters relating to veterans' affairs considered by the Senate or by the Committee on Veterans' Affairs of the Senate."

Amend the title so as to read: "Concurrent resolution authorizing certain printing for the Committees on Veterans' Affairs."

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

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF REPORT OF COMMISSION ON ORGANIZATION OF GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–1414) on the concurrent resolution (H. Con. Res. 679) to provide for the printing of additional copies of the report of the Commission on the Organization of the Government of the District of Columbia, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 679

Resolved by the House of Representatives (the Senate concurring), That there shall be printed in addition to the original press run two thousand and five hundred copies each of volume I, and one thousand five hundred copies each of volumes II and III of the House document containing the report of the Commission on the Organization of the Government of the District of Columbia, for the use of the House Committee on the District of Columbia.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL HEARINGS ENTITLED "CORRECTIONS", PARTS I THROUGH VI

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. 92–1415) on the concurrent resolution (H. Con. Res. 681) to provide for the printing of 1,000 additional hearings entitled "Corrections" parts I through VI, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 681

Resolved by the House of Representatives (the Senate concurring), That there shall be printed one thousand copies each of parts I through VI of serial 15 hearings entitled "Corrections", Ninety-second Congress, for use of the House Committee on the Judiciary.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF HEARINGS ENTITLED "DISCRIMINATION AGAINST WOMEN"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. 92–1416) on the concurrent resolution (H. Con. Res. 687) providing for the printing of additional copies of parts I and II of hearings entitled "Discrimination Against Women," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 687

Resolved by the House of Representatives (the Senate concurring), That two thousand additional copies of parts I and II of the hearings before the Special Subcommittee on Education of the Committee on Education and Labor of the House of Representatives, Ninety-first Congress, second session, on section 805 of H.R. 16098, entitled "Discrimination Against Women", be printed for the use of the Ad Hoc Subcommittee on Discrimination Against Women of the Committee on Education and Labor.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PREPARATION OF A HISTORY OF PUBLIC WORKS IN THE UNITED STATES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–1417) on the Senate joint resolution (S.J. Res. 204) to authorize the preparation of a history of public works in the United States, and ask for immediate consideration of the Senate joint resolution.

The Clerk read the title of the Senate joint resolution.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 204

Whereas the President of the United States and bicentennial organizations have encouraged associations and other groups to undertake meaningful activities to commemorate the two hundredth anniversary of our independence; and

Whereas the American Public Works Association is a nonprofit, public service organization comprised of top-ranking officials engaged in various phases of the broad field

of public works at the local, State, and Federal levels of government and this highly respected nonpartisan organization has a long history of fostering the improvement of public works practices and the enhancement of public support for needed community facilities and services as exemplified by its sponsorship and support of the Graduate Center for Public Works Engineering and Administration of the University of Pittsburgh, the annual observance of National Public Works Week, which is designed to increase the citizen's understanding of public works, inspire excellence and loyal dedicated public service, and encourage and assist talented young persons to prepare for careers in public works, and other important programs; and

Whereas the board of directors, house of delegates, and advisory council of the American Public Works Association at a special ceremonial meeting held at Congress Hall in Philadelphia on Saturday, September 11, 1971, unanimously adopted a bicentennial resolution calling for the association to undertake as its official bicentennial project the preparation and publication of the "History of Public Works in the United States From 1776 to 1976", so that future generations may benefit from a comprehensive review of public works in perspective—the project to be conducted over the next five years from the association's Washington office, located appropriately at 1776 Massachusetts Avenue Northwest; and

Whereas there is a need for such a publication as the development of public works is of vital importance to the growth and development of the United States and the quality of life of its citizens; and

Whereas the American Public Works Association intends to draw on the resources of other interested and responsible groups in carrying out this important project; and

Whereas it is to be conducted by a competent staff with an editorial review board to assure its accuracy and appropriateness, on a nonprofit basis, resulting in no monetary benefit to the American Public Works Association or to any individual, but undertaken strictly as a public service to develop a meaningful and accurate history which would be available to the young people of our country, educational institutions, and others: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all public works oriented agencies of the Federal Government, the Library of Congress, and the appropriate congressional committees be requested to cooperate in carrying this important project forward.

With the following committee amendment:

On page 3, lines 5 and 6, strike out "provide such assistance as may be required" and insert in lieu thereof the word "cooperate."

The committee amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRINTING OF "FEDERAL AND STATE STUDENT AID PROGRAMS, 1971" AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate concurrent resolution (S. Con. Res. 31) authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate concurrent resolution.

The Clerk read the Senate amendment to the House amendment, as follows:

Page 1, line 3, of the Senate engrossed resolution, strike out "1971", and insert "1972",".

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

There was no objection.

The Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

PROGRAM FOR DEVELOPMENT OF TUNA AND OTHER LATENT FISHERIES RESOURCES IN CENTRAL AND WESTERN PACIFIC OCEAN

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12207) to authorize a program for the development of tuna and other latent fisheries resources in the central and western Pacific Ocean, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, strike out "Central and" and insert: "Central,".

Page 1, line 3, after "Western" insert: ", and South".

Page 1, line 9, strike out "Central and" and insert: "Central,".

Page 1, line 9, after "Western" insert: ", and South".

Page 2, line 13, strike out "1975" and insert: "1976".

Page 2, line 23, strike out "Central and" and insert: "Central,".

Page 2, line 24, after "ern" insert: ", and South".

Page 3, line 2, strike out "410" and insert: "130".

Page 3, line 4, strike out "1972" and insert: "1973".

Page 3, line 4, strike out "1975" and insert: "1976".

Amend the title so as to read: "An Act to authorize a program for the development of tuna and other latent fisheries resources in the Central, Western, and South Pacific Ocean."

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

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, would the gentleman from Michigan explain the changes and also indicate the attitude of the conferees on our side of the aisle, on this side of the Capitol?

Mr. DINGELL. The senior members of the committee which has jurisdiction over it have concurred in the Senate changes.

H.R. 12207 would authorize the Secretary of Commerce to institute a 3-year program for the development of tuna and other latent fisheries resources in the central and western Pacific Ocean.

In accomplishing this purpose, the bill would authorize to be appropriated the sum of $3 million.

Briefly explained, the Senate amendments to the bill, other than technical amendments, are as follows:

First. The east longitude boundary of the area to be covered by the legislation was extended 10 degrees from "140 degrees west" to "130 degrees west"—in order to make sure that all potential areas off the islands of American Samoa and Hawaii were included.

Second. The 3-year program authorized to be carried out under the bill was adjusted to begin July 1, 1973—instead of July 1, 1972, as provided by the House version of the bill.

Third. The reporting deadline of the Department of Commerce to the President and the Congress was extended 1 year—to June 30, 1976—to conform with the beginning period of the program.

Mr. GERALD R. FORD. Are all the amendments germane to the bill as passed by the House?

Mr. DINGELL. I am satisfied they are germane; yes.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation.

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 15003, CONSUMER PRODUCT SAFETY ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1116 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1116

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15003) to protect consumers against unreasonable product hazards. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 15003, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 3419, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate

bill and insert in lieu thereof the provisions contained in H.R. 15003 as passed by the House.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, this is an open rule making in order the consideration of the committee substitute as an original bill and providing for the use of the Senate number at the conclusion of the matter.

The committee handling the bill appeared before the Committee on Rules. There was no opposition to the rule.

The committee asked for 1 hour of general debate. The Committee on Rules decided to provide 2 hours because it understood that there was considerable controversy over the matter, and thus we provided an open rule and 2 hours of general debate.

The Committee on Rules then proceeded to vote the rule by a vote, I believe, of 10 to 4, so obviously there was some opposition in the Committee on Rules to the granting of a rule. However, I am not aware of any major effort to defeat this rule, and I consequently reserve the balance to my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Missouri (Mr. BOLLING) has explained the rule in accordance with my understanding, and I concur in his statements relative to the rule and the action taken in the Committee on Rules.

As he mentioned, there is some controversy on this particular bill, and I happen to be one who is opposed to this particular measure, and that is why I intend to take a little time here today to set forth my reasoning, because probably the statement will be made, as the indication was made before the Committee on Rules, that anybody who votes against this bill is against motherhood and in favor of sin.

Everybody is for product safety, everybody is for consumer safety, and everybody is for employee safety. I do not think there is any question about that. All the Members are for that, and I am just as much in favor of that as is any other Member of this House of Representatives.

I spent a good many years in plant protection, having to do with safety and protection of employees, and although we passed many regulations in the various industrial facilities, we always had problems because some employees were careless and failed to abide by the safety provisions we put in.

In any event, Mr. Speaker, the alleged purpose of this bill is to establish a new independent regulatory commission. It is to be called the Consumer Product Safety Commission. This Commission is to protect consumers from unreasonably hazardous products.

The bill covers consumer products very broadly. It includes any article produced or distributed for sale to or for the use of a consumer. Therefore, it is not necessary that a product actually be sold to a consumer in order to be covered by the act but only that the product be produced or distributed for consumer use.

Some items which are specifically excluded from the coverage of the bill are industrial products and foods and exports and products already regulated under safety laws.

This new Consumer Product Safety Commission will consist of five members selected on a bipartisan basis who will serve for a period of 7 years. In order to make the Commission independent of the executive, it is provided that the members of the Commission may be removed only for neglect of duty or malfeasance in office.

They will have four different duties; namely, the collecting of and making public of information on consumer product related injuries; setting safety standards to prevent unlawful product hazards and, where such standards are not feasible, banning products from the market; protecting the public from products which pose an imminent danger to health and safety by seeking equitable relief in the courts and for administratively ordering the remedy of products which fail to comply with the Commission's safety rules.

Enforcement: It can be enforced by the use of civil and criminal penalties, injunctive enforcement, and seizure; private suits for damages and consumer suits to compel compliance with safety standards. Some functions of existing agencies will be transferred to the new commission. Some of those have to do with the Federal Hazardous Substances Act and the Poison Prevention Packaging Act and the Flammable Fabrics Act.

The estimated cost is $55 million for fiscal year 1973, $59 million for fiscal year 1974, and $64 million for fiscal year 1975.

Mr. Speaker, the report contains letters from five Governmental agencies as well as from the President. While the administration, of course, favors product safety legislation, it would prefer a consumer agency under the direction of the Department of HEW rather than a new independent regulatory commission such as will be established by this bill.

Minority views have been filed by Members DEVINE, NELSEN, HARVEY, BROWN of Ohio, HASTINGS, SCHMITZ, and COLLINS of Texas.

They maintain a consumer agency should be established as a part of the Food and Drug Administration under HEW rather than as an independent agency. These gentlemen point out that while a bipartisan independent agency is theoretically more neutral in its decisions, in fact it tends to be more indecisive, and, in addition to that, being part of a department represented at the Cabinet level it means the agency is in a stronger position to obtain funds. Moreover, the Food and Drug Administration has the personnel and organization already in existence so that that agency can begin to work sooner and at less cost than would be required under a new agency.

As I mentioned at the beginning, Mr. Speaker, I do not think if anybody opposes this bill, he can be accused of being against motherhood and in favor of sin. We know there are millions of accidents that occur in the home. Possibly there are up to 20 million a year that occur in the home, but if you are going to try to regulate some of them, we may get into some problems. How many people, for example, are injured or killed while falling in the bathtub? What are you going to do about it? Are you going to have certain regulations in connection with bathtubs or soaps? You have many accidents that occur in the use of firearms, especially in the case of teenagers and boys and others who have a BB gun and it accidentally explodes, putting out the eye of a friend or killing a friend.

The bill theoretically exempts firearms from control, but if we start a commission like this—and we have a bill pending now dealing with the control of the so-called Saturday night revolvers—then I think this bill could come back to haunt us at some time where they could put a rule or regulation into effect taking guns and ammunition out of the home.

Now, people fall out of trees and people cut their hands. How are you going to control that?

Would the distinguished gentleman from Missouri let me comment on our discussion the other day, Wednesday, in the Committee on Rules?

We heard this bill on Tuesday and put it off because one of the Members was away, but the following day, on Wednesday, the gentleman from Missouri had his thumb bandaged up. I asked him what had happened, and he said that he was cutting some meat off of beef bones to feed the dog and the knife slipped and he took a divot out of his thumb. Very honestly, in his usual fashion, he stated it was not the knife's fault or the beef's fault or the bone's fault, but it was "my fault." It was a consumer error rather than the fault of the safety of the product.

These are the types of things we have to have a little concern about. They are difficult to avoid, and this commission could not do much about them.

We had a discussion yesterday in connection with the Occupational Health and Safety Act—OHSA—and the possibility that they may have been harassing some small businesses.

I would think that with the tremendous power this proposed new commission would have that they could harass manufacturers, other people, businesses and the like, and could cause some products to be abandoned and cause some businesses to go broke.

I do not think we need another new commission. Why do we not act under the existing departments whereby we might have some control?

If you look at pages 106 and 107, section 26, in my opinion this bill will preempt all local laws unless they are identical with Federal standards or have higher standards than the Federal law.

There are various areas of this country that have their own problems that are peculiar to them alone. For example, I remember in the Watts area in California that there were for a long period of time many unvented heaters. They are against

the local laws of California, so some way had to be found to vent these heaters. But by the same token, this new commission could go so far as to cause them all to be removed, and require a different type of heating in all of those homes, which would have been absolutely prohibitive to the people living in that area at the time. So we had to make a special exemption for them which, in my opinion, could not have been done if this commission had been in existence at the time, and had decided otherwise.

I think the proposed commission is given too much power. The courts have been objecting, and I have received some objections from them—I forget who the telegram was from, but we pass many laws—we are overburdening the Federal courts to the point where we will have to have many more judges because they cannot handle the business they now have, and it seems to me that this bill could possibly overcrowd them even more.

I think we should have a little more study of this.

I would like to make the record straight on one thing, and that is on the discussion I had with the distinguished chairman of this committee. You will recall that we are now in the process of going to conference on the minimum-wage bill.

It is my understanding, although I have not studied the bill in detail, that the bill that was passed by the other body on this particular subject, which we will be committed to substitute our language for the Senate bill, S. 3419, if this rule is adopted, I understand that that is a very, very bad bill, and in discussing this with the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS) he stated that he would do everything he possibly could, or they would in the conference, to sustain the position of the House-passed bill, if this bill passes.

May I ask the gentleman from West Virginia (Mr. STAGGERS) if that is a correct statement of the position you would maintain in the conference upon the passage of this bill, so that we will not get into another problem that we might get to in conference because of the bad Senate bill?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, as I understand the gentleman's statement with reference to the statement I made, that I will try to uphold each portion of this bill in conference, and I would ask if that is what the gentleman means?

Mr. SMITH of California. That is correct.

Mr. STAGGERS. The gentleman is correct in his statement.

Mr. SMITH of California. I appreciate the gentleman's statement.

Mr. Speaker, I personally am opposed to the bill. I am not opposed to the rule.

Mr. Speaker, I think we should study this problem further, and come out with a better bill, and one that does not come back to haunt us in a few years from now by giving these tremendous powers to this brandnew commission.

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

Mr. SMITH of California. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to say to my friend from California I am very much impressed by the statements he has made in opposition to this so-called consumer product safety bill which the rule makes in order.

I am sure that the gentleman is aware of the fact that the House is awaiting from the Senate, so that it may go to conference, a bill which provides for a thorough study of the number of boards, bureaus, commissions, and councils already in the Federal Government in the hope that some of these 3,000 boards, bureaus, commissions, councils and what-have-you may be eliminated.

This bill creates still another commission in the Federal Government. I do not understand why the present regulatory agencies are incompetent to handle the duties that would be imposed upon this new National Federal Commission. I do not understand why the present regulatory agencies are incompetent to carry out whatever responsibilities may have to be discharged in pursuit of consumer safety.

Mr. SMITH of California. I do not understand it either and that is one position that I attempted to make.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CHANGING NAME OF DEPARTMENT OF COMMERCE LABORATORIES IN BOULDER, COLO., TO DWIGHT DAVID EISENHOWER LABORATORIES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11682) to change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories, which was unanimously reported by our committee.

Mr. BROTZMAN. Mr. Speaker, I would like to thank the distinguished chairman, the gentleman from West Virginia (Mr. STAGGERS), and the distinguished ranking Republican, the gentleman from Illinois (Mr. SPRINGER), of the Interstate and Foreign Commerce Committee for bringing H.R. 11682 to the floor of the House in an expeditious fashion.

This legislation, which I introduced, would change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories. The laboratories, located at the foot of the Rocky Mountains, were opened during the autumn of 1954, early in the first administration of President Eisenhower. Although the facilities originally housed the radio section of the National Bureau of Standards, they have since grown to include segments of the National Oceanic and Atmospheric Administration, and numerous other Department of Commerce laboratories. The Department has expressed its support for the bill.

The commitment of President Eisenhower to the peaceful uses of scientific advancement was well known. The Boulder laboratories, like the atoms-for-peace plan and the space program, evidenced his interest. As a matter of fact, it was President Eisenhower who formerly dedicated the original Boulder laboratories on September 14, 1954.

The Boulder facility was first initiated in 1950 when Congress authorized an expanded radio section for the National Bureau of Standards. A Site Selection Committee chose Boulder when the citizens of the city gave the Government 217 acres of land for the facility.

In addition to President Eisenhower's interest in science, there was also his interest in Colorado. His wife is from Denver, and Ike often vacationed in the State. Thus, it is altogether fitting that the Government he served in war and peace permanently honor his memory at one of its many fine scientific facilities located in the State of Colorado.

I urge a favorable vote on H.R. 11682.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 11682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laboratories maintained by the Department of Commerce in Boulder, Colorado, and authorized by Public Law 81–366 (63 Stat. 886), shall hereafter be known as the Dwight David Eisenhower Laboratories, and any law, regulation, document, map, or record of the United States referring to such buildings shall be held and considered to refer to such buildings under and by the name of the Dwight David Eisenhower Laboratories.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONSUMER PRODUCT SAFETY ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15003) to protect consumers against unreasonable product hazards.

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 consideration of the bill H.R. 15003 with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

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

Mr. ROUSSELOT. 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. 373]

Abernethy	Dowdy	McKinney
Abourezk	Drinan	McMillan
Abzug	Dwyer	Macdonald, Mass.
Adams	Edmondson	Melcher
Addabbo	Edwards, Calif.	Michel
Anderson, Tenn.	Esch	Mikva
Annunzio	Fascell	Minshall
Ashbrook	Findley	Morgan
Ashley	Flynt	Murphy, N.Y.
Aspinall	Ford, William D.	Patten
Badillo	Fraser	Pepper
Baring	Galifianakis	Peyser
Betts	Gallagher	Pirnie
Bevill	Gettys	Powell
Biaggi	Goldwater	Pucinski
Biester	Gray	Rangel
Bingham	Griffiths	Rees
Blanton	Halpern	Reid
Blatnik	Hanley	Robison, N.Y.
Brasco	Hansen, Idaho	Rooney, N.Y.
Burton	Hawkins	Rosenthal
Byrne, Pa.	Hébert	Saylor
Byrnes, Wis.	Helstoski	Scheuer
Byron	Hillis	Schmitz
Cabell	Howard	Scott
Caffery	Hungate	Skubitz
Carey, N.Y.	Jones, Ala.	Smith, N.Y.
Cederberg	Jones, N.C.	Steiger, Ariz.
Celler	Kastenmeier	Steiger, Wis.
Chisholm	Keating	Stephens
Clark	Kemp	Stokes
Clay	Koch	Stratton
Collins, Ill.	Lennon	Stuckey
Conyers	Link	Teague, Calif.
Curlin	McClory	Teague, Tex.
Daniels, N.J.	McCormack	Terry
Dellums	McDade	Ullman
Derwinski	McDonald, Mich.	Wydler
Diggs	McEwen	Zablocki
Dow		

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, 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. 15003, and finding itself without a quorum, he had directed the roll to be called, when 312 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. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 1 hour, and the gentleman from Illinois (Mr. SPRINGER) will be recognized for 1 hour.

The Chair now recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 15003, the Consumer Product Safety Act. This bill proposes to establish an independent regulatory commission with broadly assigned powers to protect the public from hazardous consumer products. This legislation will have an effect in every American household and is important to the safety of every member of our constituency, including our wives, sons, daughters, and grandchildren. Its enactment will be one of the most significant laws written in this Congress.

As most Members will recall, in the 90th Congress we established a National Commission on Product Safety to conduct a comprehensive study of the adequacy of existing laws to protect consumers against unreasonable risks of injury associated with hazardous household products. The seven-member bipartisan commission was appointed in March of 1968. Its final report was submitted to the Congress in June of 1970. This report forms the basis for the legislative proposal which I bring before the committee today.

Most existing Federal safety legislation has been enacted on a piecemeal basis in response to individual tragedies. Thus, the Flammable Fabrics Act was adopted to deal with flame hazards from textile products after several children were killed or disfigured from accidents involving brushed rayon "torch" sweaters. Motor vehicles were subjected to regulation in 1966 after deaths on our highways soared to over 55,000 per year.

In the course of its study, the National Commission listed a large number of products which it found to present unreasonable hazards to consumers. These included "unvented" gas heaters, hot water vaporizers, and infant furniture. Rather than propose individual legislation designed to deal with each of these products, however, the National Commission recommended that we abandon our traditional case-by-case approach and consolidate in a single agency authority sufficient to regulate the full spectrum of products which are sold to or used by consumers.

Toward that end, the National Commission submitted with its final report legislative proposals which recommended the creation of an independent regulatory commission with comprehensive authority to regulate hazardous products. Also, drawing upon the National Commission's report, in the beginning of this Congress the administration proposed legislation which recommended the establishment of omnibus product safety authority in the Federal Government. The administration's bill, however, proposed to vest this authority in the Department of Health, Education, and Welfare rather than create a new agency.

These two proposals formed the focus of 13 days of hearings which extended over a 4-month period. The committee's Subcommittee on Commerce and Finance met eight times in executive session on these proposals. In the end the subcommittee unanimously reported a clean bill representing an accommodation between the legislative recommendations of the National Commission and those of the administration. This bill, H.R. 15003, with certain amendments, was ordered favorably reported on voice vote of the full committee. Seven members of the committee, while not dissenting from the bill, have filed minority views believing that the authority contained in this legislation should be exercised by HEW and not an independent regulatory commission as recommended by the committee.

This bill would authorize spending of $178 million over the first 3 years. These amounts are based upon estimates supplied by HEW. This is, of course, a substantial amount of money. The dimensions of the problem are also substantial, however.

The National Center for Health Statistics estimates that each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. The annual dollar cost to the economy of product-related injuries totals over $5 billion. Moreover, home accidents account for more deaths among children under the age of 15 than cancer and heart disease combined.

These statistics have convinced the committee and virtually every witness who testified in the committee's hearings of the substantial need for this legislation.

Many of the major industries in the land have come to me and said they are for this bill, that they think it is needed. There are two points that they say should be changed, and I am going to offer amendments to change those.

The first is to change the manufacturer's date that is required in the bill be placed on each appliance or product that is made so that the consumer might know it. We put it in the bill, but I am going to offer an amendment that it may be done in code. But there are a lot of products put on the market that do not change from year to year, as an automobile does, that has a special model, and so forth. Many people, when they see the date, say that it is an old model because it was manufactured at a certain date, and they do not buy it. A lot of the major retail companies objected to this, and as I say, I think they are rightfully objecting to this, and perhaps it should be changed.

Every precaution, I think, has been taken in this bill to give industry due recognition and a part in making the standards—and this is really unprecedented.

Any industry cannot be convicted, of even a civil penalty or a criminal penalty, if it is shown that they did not knowingly violate the act.

We think it is a good bill and one that has been needed for a long period of years. I know that the gentleman from California said—well, it would be like voting against motherhood to vote against the bill. But I believe it is a bill that is very meritorious and a bill that has been carefully drawn with the precautions taken that not only consumers be protected, but industries of the land be protected as well.

As I have said, I have in my files several letters from large industries saying that they are for the bill, with two changes that I intend to offer.

So I recommend this bill to this House wholeheartedly as one that has been needed for years and one that will prevent a lot of injuries that occur in homes and across the Nation, injuries that are needless.

Mr. LATTA. Mr. Chairman, will the gentleman yield for a question.

Mr. STAGGERS. I yield to the gentleman.

Mr. LATTA. I would like to ask the gentleman a question about the statement he made that industry would be invited to make recommendations as to standards and so forth.

Mr. STAGGERS. That is right.

Mr. LATTA. I would like to have the gentleman refresh my memory as to whether or not the Senate bill contained

an amendment which would preclude them from doing this?

Mr. STAGGERS. The Senate does have the so-called Nelson amendment which precludes them from coming in. We definitely put language in our bill that they would have a part in developing standards.

Mr. LATTA. That is your position?

Mr. STAGGERS. That is my position and that is the position of the committee.

Mr. LATTA. I thank the gentleman.

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

Mr. SPRINGER. Mr. Chairman, I yield myself such time as I may consume.

The idea of creating and enforcing safety standards for consumer products which logically and sensibly lend themselves to such treatment is probably accepted by most consumers and also by most businesses engaged in manufacturing and distributing such items. Considering the complexity of the problem and the issues and technical details which must be resolved to accomplish this purpose it is a wonder that so much agreement exists. There is, however, considerable difference of opinion as to the proper way to administer such an effort.

As reported the bill calls for the creation of yet another independent regulatory agency. I personally doubt that this is either wise or necessary. Past dealings with such commissions indicate serious weaknesses in their operations. Many commissions are fraught with internal bickering which works against the accomplishments expected from the legislation. Most commissions do not have the clout necessary to contend with the budget process nor the access to the White House. It could also be argued that unlike the overall regulation of transportation or communications, safety standard setting is not the kind of activity which lends itself to the regulatory pattern.

Organizing a new administrative entity from scratch is a lengthy affair. Although a skeleton of an organization appears promptly, the real business of the commission cannot be carried out for many moons. What I am saying here as to the disadvantages of a new commission has been said previously in the minority views filed with the committee report. I would commend those remarks to the Members of the House when considering their votes on an amendment to eliminate the commission from the bill and leave the safety standard setting activity in the Food and Drug Administration where it has been for some time now and where it has received high level attention and concern. As pointed out, there will be considerable research and staffing needed in the field. These already exist in FDA but since they do other things as well as safety standards it is not a mere matter of transferring facilities and people to a new entity. If it is the real wish of Congress to see early accomplishments in assuring the safety of consumer products it should opt for leaving the activity where it now rests.

In saying that most people applaud the general idea of standard setting we have grossly oversimplified the problem. There are many features of this bill which seemed correct to the committee which might or might not strike all Members the same. For example, the bill invites and encourages private industry to participate in the creation of safety standards for products which they handle or manufacture. This is traditional. It is also sensible. Maybe it is even necessary. No one knows the processes or the end product characteristics better than those who make the product for public consumption. Now it can be argued that these people have selfish interests and cannot be trusted to have any part in the proceedings except to defend themselves. This, of course, completely overlooks the fact that what expertise exists is in industry, not in government and not in consumer groups. Thousands of standards have been worked out over a long period of years, standards which were aimed at the betterment of consumer products. Most of this was done without any government prodding or assistance. I am not saying that it is improper for government to interject itself—I am only saying that it would be improper to exclude industry as the major resource.

Now and again a consumer product will show up in the market place which presents a clear and imminent hazard to the public. Some toys have fit this category and prompt removal from the shelves was not easy. This bill tries to improve the situation by recognizing that at times fast action is imperative and the full rights of the manufacturer or distributor can only be protected subsequently. This is done by allowing for quick court action rather than peremptory seizure without proceedings of any kind. We should be able to trust the courts to give a realistic interpretation to the term "imminently hazardous consumer product."

Gathering information on injuries arising from use of consumer products and dissemination of such material should work in the best interests of buyers and users of products.

The individual consumer has many courses of action open to him under this bill. He may ask that a standard be promulgated for particular products. This does not force the Government to act but it does give the individual citizen direct access to the machinery. That citizen may also sue directly for damages he may suffer due to failure to meet safety standards. As fair as this may be, it is also very possible for a manufacturer to do everything in his power to turn out a proper item and not do so. The design may be good and the manufacturing process well set up and well supervised and yet a lone defective item can result. If a defendant business can successfully show that all these things obtained it will be considered a defense against losses by reason of the product failure.

Aside from pursuing remedies in court, the consumer is further protected by requirements that discovered defects in a manufacturing run be followed by notification to purchasers and arrangements made for repair or replacement.

Except for the disputed question as to the administrative agency to carry out this program the bill represents a workable system for preventing safety defects in consumer products and a sensible system for redress when they do nonetheless occur.

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

Mr. SPRINGER. I yield to the gentleman from West Virginia, the chairman of the committee.

Mr. STAGGERS. Mr. Chairman, I would like to point out that under the civil penalty there can be a compromise by the Commission if there are extenuating circumstances which they can take into consideration.

Mr. SPRINGER. I am glad the chairman explained that. If those extenuating circumstances are sufficient, they can waive the civil penalty.

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

Mr. SPRINGER. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, one thing I find, aside from the problem of creating a new regulatory Commission that can set standards for business is something which always personally gives me pause and gives me concern. In this bill there is the provision in section 13 which gives the Commission authority to require the manufacturers of the new consumer product to furnish a notice and a description of the product to the consumer before its distribution in commerce. It seems to me, and I do not think this has been commented on, it is a pretty far-sweeping proposal in a free enterprise economy to say that before a man can manufacture a new product he has got to give notice and a detailed description to some Government bureau before he can even start to sell it.

Mr. SPRINGER. All right. May I say we already in effect have jurisdiction of many products now being produced. Now the question arose as to whether or not if they are going to introduce a new product, we should give certain jurisdiction. In that case we felt it was fair that anybody who introduces a new product on the market ought to give this kind of certification that it falls within this act.

Mr. DENNIS. I can only say to the gentleman it seems to me it would be much more normal to let this Commission do its job and if they find something wrong with a product to call it to their attention rather than having to get a prepermission before they can go into business.

Mr. SPRINGER. Let me say this. I think if the gentleman will talk to his business people who are producing things in his district, he would find they would rather have a submission of an article in substance under this section than they would like to have it come after they have produced the article and put it on the market and then be put out of business. Is it not more reasonable to have certification in the beginning that it is not dangerous? Just as an example, and it is not covered in this act, take automobiles. Maybe 100,000 automobiles have to be recalled by the factory because something is wrong. We do not cover automobiles in this act but I give that

as an example of what has been happening. Would it not be far better if we were producing a product to have a precertification rather than put 100,000 on the market around Christmas for example and then have somebody say we cannot sell it?

Mr. DENNIS. Under our system I always thought a man had a certain amount of liberty to take a chance. If we adopt the philosophy that the Government is going to run everything, maybe we should do this. Maybe it would be safe. But I think if I want to put a product on the market I ought to be able to think about it and make up my own mind without running down here and asking some bureau.

I think the gentleman has made a point, but I think this point here is the safety of the product. I repeat, it would be better to do it this way.

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

Mr. SPRINGER. I yield to the chairman.

Mr. STAGGERS. I should like to answer the gentleman and say that all a manufacturer would be required to do is just give a description and describe the intended use of the article, and it can be put on the market. If you read the report on page 39, it says it does not have to be cleared.

Let me read the bill:

For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products . . .

Then, all they have to do is notify the Commission of the description of what they are going to do, and that is about all. As it says here—

The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

That is all he has to do. Then, they take a risk as they do every place else.

Mr. DENNIS. Will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Indiana.

Mr. DENNIS. I understand, Mr. Chairman, that you do not have this to the place where a man has to have permission before he can sell; you have not gone that far. You have only taken the first step. He has got to give notice before he sells. I expect that maybe in a year or two from now we will be back here with a bill which makes a precondition. That is what I am worried about, the first step forward.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, all I wish to do is agree with what the chairman of the committee has said is the intent of this section. All this section does is provide a means for the Commission to keep informed about what is going on in the area of new products. That is all.

Mr. SPRINGER. I thank the gentleman.

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

Mr. SPRINGER. I yield to the gentleman from Utah.

Mr. LLOYD. Mr. Chairman, did the gentleman support the creation of the independent Commission?

Mr. SPRINGER. No, I did not. I felt it ought to be in HEW from the beginning, but you understand that in these kinds of cases, you often find that the minority does not get out on the floor the exact bill it wants. I see by the seven minority Members who wrote the minority report on this, that this was one of the reasons that they wrote the minority report. They did not agree with the independent Commission idea. I think I have leaned over as far as I can go in this bill in going along with the bill as it is written. I said that I will not go along with anything which changes this bill very much.

Mr. LLOYD. May I ask one question of the gentleman?

Do I understand the provisions of the bill provide that if a manufacturer of a product covered under this act should unknowingly place it on the market without first giving notice to this Commission, he would be subject to a fine of $2,000 and upward?

Mr. SPRINGER. I will have to turn to the chairman. I do not think it does.

Mr. STAGGERS. The bill, I think very clearly, says "knowingly" or "having knowledge of" without due care and so forth; that he has to know what he is doing and so forth.

Mr. LLOYD. Even though he does not know of this new provision requiring that notice be given to the Commission, he will be subject to a civil fine?

Mr. STAGGERS. If he can prove that, I am sure he would not be subjected to the fine, but certainly any man who manufactures products, I think knows the law of the land, what it might be, but if they can prove differently before the Commission or even before the judge, that would be different.

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

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

Mr. MOSS. If you will look under page 101 under Criminal Penalties, section 21(a)—

Any person who knowingly and willfully violates——

Mr. LLOYD. I was not referring to the criminal penalties.

Mr. MOSS. Then under Civil Penalties it is also "knowingly." I will give you the precise page. It is on page 99:

Any person who knowingly violates—

Under section 20(a) at page 99 of the bill dealing with civil penalties, so he must knowingly violate.

I thank the gentleman for yielding.

Mr. LLOYD. One of the great problems facing small business in the country today is this continual problem of applying the law and the various regulations that are being passed by this body and the State regulatory bodies. It is becoming very onerous and in many cases almost impossible for small businessmen to remain in business. I believe that is one of the real problems we have to consider.

Mr. SPRINGER. May I say I agree with the gentleman. However, everyone was for a bill. The administration was for a bill and strongly supported a bill.

The question arises as to what the character of the legislation shall be, how far it shall go, who shall determine the standards and enforcement, and how the enforcement shall take place. This is where the great disagreement in the committee arose, over these five particular problems. This was something that was ultimately compromised, as to how this would be done.

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

Mr. SPRINGER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Would it be correct to say that this bill is in the nature of an indictment of the present regulatory agencies which deal with the subject matter here being considered?

Mr. SPRINGER. No. I would say it is not an indictment. Actually, we do not have any agency presently covering the matters contained in this bill.

Mr. GROSS. What about the FDA to mention just one?

Mr. SPRINGER. The FDA has some safety jurisdiction, but not this. For instance, the FDA handles many things having to do with food products, cosmetics, and those types of things. Generally speaking, on the enforcement of that kind, for safety, it has been in the FDA.

The reason why I felt this should be placed there was because I thought this dealt with a product. If we are going to change the character of it, why not leave it in FDA, because these people have had experience in this field? This is why I felt that ought to be done.

They do not cover most of the matters covered in here, but they do cover other products for safety. Those are the others I read, which are not covered; food, drugs, cosmetics, medical devices. Tobacco is covered in FDA. Some of these others are covered in other legislation.

Principally in the past FDA has handled safety or food and drug products, for the most part.

Mr. GROSS. This bill provides, as I understand it, for a Commission of five members?

Mr. SPRINGER. That is right.

Mr. GROSS. How many members?

Mr. SPRINGER. Five.

Mr. GROSS. And an advisory board?

Mr. SPRINGER. A council of 15 members.

Mr. GROSS. An advisory council of 15 members. Does not the gentleman believe this is laying still another layer of fat on top of the present regulatory agencies. If the existing agencies have not been doing the job they should in this field, why did the committee not bring out legislation to compel them to assume their responsibilities rather than creating still another Commission and another advisory council in the Federal Government?

Mr. SPRINGER. May I say that the

gentleman, having been in the committee process himself, knows that in the minority we do not always get what we want. I believe this was supported very largely by those in the minority.

I am not saying this was partisan. I am saying that there were not sufficient votes to sustain that position we originally wanted. The gentleman is right. Because we come here with another commission, rather than putting it in FDA, a question arises in my mind, "Should I conscientiously oppose this if it is in the public interest merely because I did not get my way in putting it in FDA?"

Mr. GROSS. Will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman.

Mr. GROSS. I was not directing my remarks personally to the gentleman. Those remarks were directed to the majority in the House of Representatives, and since this bill is a House bill and is before the House today, I hope that before this day is over someone on that side of the aisle will tell us why they in the majority brought out this kind of a bill.

Mr. STAGGERS. Will the gentleman yield?

Mr. SPRINGER. Yes; I will yield to the chairman of the committee.

Mr. STAGGERS. I have in my hand here some of the samples of those things that are not covered at all in any regulations that contain unreasonable hazards: Architectural glass, color television sets, floor furnaces, high-rise bicycles, hot water vaporizes, infant furniture, ladders, power tools, protective headgear, rotary lawnmowers and on and on, products that are not under any regulation at all today, products that are hazards around the house.

Now, these have not been covered. In this new agency we cover all of these, and we take the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, and the Flammable Fabrics Act, and place all of them in this agency.

I should point out that this was bipartisan, because both parties did, as I say, cosponsor it.

And may I say this further: This advisory committee is made up of five men from Government, five from industry, and five from the consumers, so that they will know and be able to advise the Commission. We tried to make it as bipartisan and as free as we could, so that industry would have the benefit and the consumers would have the benefit, too.

Mr. SPRINGER. May I ask the Chairman, how much remaining time do I have?

The CHAIRMAN. The gentleman from Illinois has consumed 25 minutes.

Mr. SPRINGER. Mr. Chairman, I cannot yield any further time, since I have at least one Member who wants to speak.

Mr. STAGGERS. I yield 5 minutes to the gentleman from California (Mr. Moss), the subcommittee chairman.

Mr. MOSS. Mr. Chairman, I think the committee is fully aware of the time and effort that has gone into this legislation. Before setting forth the details of that effort, I want to pay my compliments to every member of the subcommittee for the diligence with which they followed this legislation.

Mr. Chairman, the Consumer Product Safety Act is legislation of major importance to every American. It was carefully structured to promote the safety of consumer products, reduce unnecessary deaths and injuries and strengthen consumer confidence in our economic system.

It is cosponsored by every member of the subcommittee, which spent over 5 months in hearings and executive sessions on the bill.

The need for this legislation is documented in literally thousands of pages of testimony before the House and Senate Commerce Committee's and the National Commission on Product Safety. You will recall the National Commission on Product Safety was established by Congress in 1967. It conducted an extensive 2-year investigation of the safety of consumer products. It was a bipartisan commission. Its report was unanimous on all major recommendations. This legislation is based upon that report.

Twenty million Americans are injured every year in accidents associated with consumer products; 110,000 of them permanently; and 30,000 are killed. While not all of these deaths and injuries are caused by consumer products, testimony before the Subcommittee on Commerce and Finance, established that a significant number can be eliminated if proper attention is paid by both Government and industry to accident prevention.

In this connection the National Commission concluded in its report:

> The exposure of consumers to unreasonable consumer product hazards is excessive by any standard of measurements.

Of course, it is easy to talk about statistics, but the real meaning of this legislation lies in the pain and suffering of individual Americans who are unnecessarily maimed by products that can be designed better. For example:

Glass doors and windows that are not made of safety glazing cause 150,000 accidents a year; gas floor furnaces which are not adequately insulated develop temperatures of up to 350° and burn 30,000 a year; unvented gas space heaters which are inadequately designed result in between 350 and 1,000 deaths annually; and rotary power lawnmowers which are not adequately designed result in 140,000 injuries annually.

Should any member think that the list of hazards compiled by the Commission was a final and exhaustive list, I would recommend that he carefully read the hearings of the subcommittee on this legislation. Very serious questions were raised concerning the safety of many products not investigated by the commission, such as children's minibikes, aluminum home wiring and synthetic football turf.

With a little effort by Government and industry and with the assistance of consumers and consumer organizations, these products can be improved and the annual cost of injuries, which may exceed $5 billion, can be reduced.

It should be obvious to anyone familiar with the background of this legislation that the need is clear and present. Every day of delay means more unnecessary injuries. During the month of July alone, the emergency rooms of the 16 California hospitals reporting to the Department of Health, Education, and Welfare treated 2,798 persons for injuries associated with consumer products. And, remember, there are 479 other emergency room facilities in the State which are not in the reporting system.

Now let me briefly describe the manner in which the law will operate.

The bill authorizes the collection of injury statistics and the conduct of medical and engineering studies to assist in determining the causation of accidents. It authorizes the dissemination of educational information to consumers to help them avoid accidents. It provides for the development of safety standards where an unreasonable product hazard is found. These minimum Federal safety standards might relate to the performance, labeling or packaging of a consumer product. They could be promulgated only after fully adequate hearings and judicial review.

The subcommittee and the committee were especially careful to design the act to take into account the legitimate problems of industry. Rarely have I seen legislation drafted with more awareness of its effect on the industries that will be subject to it. For example:

First, producers and private standards groups are given the opportunity to develop proposed product safety standards for the Commission. So are consumer groups. The Commission may agree to contribute to the developer's costs. I am aware of no comparable provision for industry and consumer participation in the development of other Federal regulations.

Second, product safety standards may be issued only after a hearing pursuant to the Administrative Procedure Act. In addition to the requirements of section 553 of that act the bill requires the agency to afford interested parties an opportunity for oral presentation of arguments and that a transcript of the proceedings be kept for purposes of court review.

Third, under this bill court review of product safety standards will be pursuant to the "substantial evidence" rule rather than the usual standard which sustains an agency's rulemaking action if it is not arbitrary. This is a departure from the normal standard of review in recognition of the importance of commission decisions to the public health and safety, as well as to the industries involved.

Fourth, the agency may proceed against "imminent hazards" solely by court action for injunctive relief. The Federal Hazardous Substances Act, which is already law, allows for an administrative ban of imminently hazardous products.

Fifth, finally, the bill contains careful provisions protecting against the unnecessary disclosure of trade secrets and other confidential business information.

It should be clear, from this description, that the Consumer Product Safety Act is a legislation that will be fair to business—and indispensable to American consumers.

Mr. Chairman, we have heard much discussion about the fact that this legislation creates an independent consumer product safety commission to consolidate

existing Federal safety programs and to regulate the many unregulated products that will be subject to it.

I can assure the Members that the subcommittee and the committee weighed carefully the need for a new agency. The original recommendation for the creation of an independent commisison came from the National Commission on Product Safety and it was unanimous.

The Commission stated:

> Statutory regulatory programs buried in agencies with broad and diverse missions have, with few exception, rarely fulfilled their missions . . . the high visibility of a vigorous independent commission would be a constant reminder of Federal presence and would itself stimulate voluntary improvement of safety practices.

The committee was also of the opinion that a bipartisan independent commission would tend to insulate safety decisions from political pressure, speed up the budget process, permit more effective communication with the public and industry, consolidate presently fragmented safety programs and avoid further burdening the already overburdened department of Health, Education, and Welfare.

The subcommittee had 13 days of hearings, spent 8 days in markup, and then took it to the full committee where the work of the subcommittee was reviewed.

At no time in the course of the consideration of this bill was it considered on a partisan basis in the subcommittee. It represents a part of the thinking of each member of the subcommittee. There is not a member who cannot point to something in this legislation and say, "That is my amendment. It is there because that is what I proposed."

I think it is a fine example of the legislative process working most effectively.

But before the legislation ever reached the subcommittee, the Committee on Interstate and Foreign Commerce directed the creation of the National Commission on Product Safety, and that Commission worked for 2½ years at a cost of about $2 million. It had held many hearings, examining into the nature of complaints against products on the American market. The Commission then filed a report. The bill before you represents a significant degree the consensus of the members of that National Commission on Product Safety.

Certainly with respect to the assignment of duties of administration of this act to an independent agency, that was a unanimous recommendation of the special Commission. That Commission reflected rather broadly the commercial interests of this Nation.

I think the success of the legislation offered to you today by the Committee on Interstate and Foreign Commerce in meeting the needs of both industry and business is best brought into focus by looking at some of those who have come forward and said, "We support the House bill."

Sears, Roebuck—the largest merchandising firm not only in this Nation but in the world; the Association of Home Appliance Manufacturers. They are not afraid of the House bill at all; they endorse it. The Consumer Federation of America, the Consumers Union, the American Academy of Pediatrics. There are others, but those are important groups, groups concerned with the problem, as I know every Member of this Congress is.

So we have offered you here good legislation which meets the need for consumer safety that was so amply illustrated in the hearings of the committee and the report made available to every Member of the House as a result of the work of the National Commission on Product Safety.

Mr. Chairman, we are all aware that this legislation affects substantial economic interests. Some of them have not hesitated to remind us of that fact. But I would remind my colleagues consumer safety legislation also affects the public interest. It is an effort to protect the health and safety of all Americans. Most of them still have a deep and abiding confidence in this democracy. The enactment of this legislation will not lessen that confidence.

Mr. HOLIFIELD. Will the gentleman yield?

Mr. MOSS. I am very happy to yield to the gentleman.

Mr. HOLIFIELD. The gentleman knows of my concern for protection of consumers in bringing before the House a bill which was passed by a vote of 300 to 44 on this subject.

The gentleman sees nothing in this bill that would conflict with the establishment of a consumer agency, does he?

Mr. MOSS. I do not. I see nothing at all in here to that effect.

Mr. HOLIFIELD. I have studied this bill, and I think it is a fine piece of legislation. I want to compliment the gentleman from California, the chairman of the subcommittee, and the members of his subcommittee as well as the chairman of the full committee.

This committee, in my opinion, does its work and does it well. It does it carefully and brings to the floor well thought out legislation. Where there are differences among the members of the committee they are logically presented. It is a great comfort to me as a Member of the House to have been able to follow this committee and support it in most of its legislation if not all of it.

I want to compliment the gentleman, the subcommittee chairman, the chairman of the full committee, and all of the members, including the fine members on the minority side, for bringing this bill before the House.

Mr. MOSS. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT) a member of the subcommittee.

Mr. ECKHARDT. Mr. Chairman, I want to use my time to answer the question that the gentleman from Iowa raised, and I hope it will be to his satisfaction, because many of these same arguments were raised on the subcommittee and ultimately we came out with a unanimous opinion with respect to the independent agency.

It will be noted that the minority report is not signed by any Republican member of the subcommittee.

Let me point out what we were trying to do. Instead of proliferating agencies, we were trying, No. 1, to bring all of the areas of consumer protection against unsafe products under a single agency. For instance, flammable fabrics was controlled by Commerce in establishing standards, by HEW in investigations, and by FTC in enforcement. If you can show me a better model of inefficient administration and of imposing undue loads on the manufacturer by subjecting him to three separate agencies in three different areas, I would like to know it. Hazardous substances, it is true, was under HEW, and the poisonous product packaging was in HEW.

What we felt we ought to do since we were dealing here with an agency that had largely judicial or quasi-judicial powers was to place it in a single agency, a single agency under the surveillance of Congress and not related to any political party.

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

Mr. STAGGERS. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, we wanted to remove it from the departments of Government that move and change with the movement of administration. We have activities here that are essentially judicial in function so we provided 7-year overlapping terms that would run outside the terms of administrations. I think we afforded the most effective way of not proliferating agencies, but consolidating in a single agency a quasi-judicial function and of creating an agency that would be most congenial to the due process afforded in this bill.

I know, in the presentation of this bill and in the answers to some of the amendments, you will ultimately see that we have been more sensitive to judicial process than any other drafters of a piece of legislation affecting administrative agencies.

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

Mr. STAGGERS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I will not take the full 2 additional minutes, because I feel that if there ever was a subcommittee that worked carefully across the aisle on points like these it was our subcommittee.

The question was brought up just a minute ago by the distinguished gentleman from California (Mr. HOLIFIELD) concerning the question of a Consumers' Advocate.

Now, from the other side of the aisle we received the suggestion that the Consumers' Advocate under the other bill should be sufficient, and that we would be proliferating interference with agencies if we created another special Consumers' Advocate. So we gave that up. They convinced us. We on the other hand convinced them, I believe, and I would invite responses from some of the members of that subcommittee, that since this was essentially a quasi-judicial body it was far better to have it appointed over a long period of time, with long terms, and independent of

one of the departments of Government which are really not set up for judicial or quasi-judicial determinations.

Now, essentially that is what we did, and I think it was a fine example of exchange not on the basis of what is in the administration's bill, or what is in somebody else's bill, but what will work.

For instance, we took from the administration bill directly the control of imminent hazards instead of giving the agency any power for an immediate ban. We make them go to court, just as in the administration's bill.

So we have a fine mixture, and I think a very workable total package.

Mr. SPRINGER. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, we have legislation here today that carries the title "Consumer Product Safety Act." Now who in the world can be opposed to consumer product safety? You know there are those in this Chamber who shudder, shake, and shiver when they think Mr. Nader may take offense at what they do, especially the violation of his code and vote against some title like this. Nader, as you know, is the self-appointed guardian of the people of this country, as well as an "expert" on all subjects.

Now let us take a look at what it does. Let us take a look at this committee report stating the purpose of the legislation.

The bill would create a new independent regulatory commission with comprehensive authority. Now that is all we need in government—another new comprehensive regulatory agency—we do not seem to have enough.

This bill would vest in the consumer product safety commission the authority to collect and to disseminate information on consumer products related injuries; establish mandatory safety standards or to ban a product from the marketplace; obtain equitable relief in the courts and so on.

It provides a system of product certification to compel inclusion of certain safety related information on product labels and so forth.

There are seven of us who attached our signatures to the minority views, in addition to the gentleman currently in the well, the gentleman from Minnesota (Mr. NELSEN), the gentleman from Michigan (Mr. HARVEY), the gentleman from Ohio (Mr. BROWN), the gentleman from New York (Mr. HASTINGS), the gentleman from California (Mr. SCHMITZ), and the gentleman from Texas (Mr. COLLINS).

I will not attempt to go into all the minority views except to point out to you that we deplore the creation of another independent regulatory agency, another commissioner and a five member board with a fifteen member advisory board.

We point this out and I am making reference to the last paragraph on page 69 of the minority views which says the following:

> To create a new commission will guarantee that not much of anything will happen in the field of product safety for two or three years. It will take that much time to work out the details, get space and hire the kinds of people needed. Even the commissioners themselves, however competent they may be, will need considerable time to learn to work together.

It goes on further and says:

> There is also every reason to believe from a fiscal point of view that the creation of a new commission will cost the taxpayers far more than leaving the product safety effort in an already organized and operating department of government. A new effort will require new forces and new research facilities. HEW has these already.

That is why those of us who attached our signatures to the minority views, feel that this should be handled by the existing regulatory agency, the Food and Drug Administration within the Department of Health, Education, and Welfare.

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

The CHAIRMAN. The gentleman yields back 2 minutes.

Mr. SPRINGER. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, that the public is entitled to purchase products without subjecting themselves to the possible risk of injury or death in the operation of these products would appear to be self-evident. And yet, today consumers are not able to confidently rely on the safety of the products they use and should enjoy.

The National Center for Health Statistics estimates that each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. The annual cost to the Nation of product-related injuries may exceed $5.5 billion. It is important to note that these figures do not include injuries resulting from automobile accidents, which have been widely reported to total 4 million injuries, 55,000 deaths, and an economic cost of more than $16 billion annually.

And yet, for all these statistics and the assumption that the Federal Government exercises broad authority in the interest of consumer safety, existing Federal authority to curb hazards in a majority of consumer products is virtually nonexistent.

The Congress has attempted to respond to this need by passing a series of acts designed to deal with specific hazards in a piecemeal approach. These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Amendments of 1967, the Radiation Control for Health and Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970.

In recognition of the problems and the comprehensiveness of the issues involved, the Congress created in 1967 the National Commission on Product Safety with a directive to "conduct a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against unreasonable risks of injuries which may be caused by household products." The Commission, in issuing its report in 1970, recommended two fundamental changes in the Federal Government's approach to product safety. First, it recommended that a single independent agency be given the basic responsibility within the Federal Government for regulation designed to promote the safety of consumer products. Second, the Commission recommended that the new product safety agency have authority over the safety consumer products. The legislation we consider today incorporates these two fundamental changes into the most comprehensive consumer protection legislation ever considered.

It may be asked, "Is new product safety legislation needed?" Consumer spokesmen acknowledge that technological progress, growing affluence, and advances in product distribution have brought great benefits to American consumers over the past half-century. These include widespread availability of electrical appliances, power tools, household chemicals, medicines and countless other products. But accompanying these advances are the new risks to the safety and health of the American public.

There are those who believe that safety begins in the home with behavioral patterns of the family, such as storing chemicals out of the reach of children and providing for steady ladder. Others contend that safety begins with the home itself, the environment where hazardous products find their uses. And still others believe that safety begins in the factory and includes design, construction and hazard analysis, as well as quality control. All three concepts clearly contribute to the overall safety picture. The National Commission attempted to find the weak link in this chain, that area where remedies could best be applied with the assurance of some degree of success. The Commission determined that the greatest promise for reducing risk resides in "energizing the manufacturer's ingenuity." Government stimulation, coupled with this technological know-how could achieve the needed safety controls.

The Congress, in responding to the National Commission on Product Safety, began to study the problems involved in assuring product safety for all consumers. The House Subcommittee on Commerce and Finance of the Interstate and Foreign Commerce Committee held public hearings on a number of national product safety proposals, including the recommendations included in the National Safety Commission's Report and those recommendations contained in the President's consumer message.

As reported from the committee, the legislation we are considering today would vest in an independent regulatory Commission authority to collect and disseminate information on consumer product related injuries; establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or where such standards are not feasible, to ban the product from the marketplace; obtain equitable relief in the courts to protect the public from products which pose imminent hazards to

health and safety and administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety-related defects.

The bill also contains a system of product certification and permits the Commission to compel inclusion of certain safety-related information in product labeling. The Commission would be given broad inspection and recordkeeping powers. Enforcement of the provisions contained in this legislation would be obtained through court injunctive process or through imposition by the court of criminal and civil penalties. Private suits for damages are allowed to be brought in Federal courts and consumer suits are permitted to compel compliance with safety rules and certain Commission orders.

All witnesses who testified before the committee including virtually all segments of the manufacturing industry, supported the proposition that the Federal Government should assume a major role in assuring the safety of consumer products. Disagreement among witnesses primarily centered upon the organizational structure for regulating product hazards and the procedures to be employed in the exercise of governmental authority.

The National Commission on Product Safety had recommended that a new independent Federal agency be established; the administration had asked that this authority be given to the Department of Health, Education, and Welfare. The administration planned to build on the activities, personnel, and existing facilities of the Food and Drug Administration and to reorganize the FDA for the purpose of assuming the additional responsibilities of this legislation.

The decision of the committee to create an independent regulatory agency along the lines of the recommendations of the National Commission on Product Safety reflects the committee's belief that an independent agency can better carry out the legislative and judicial functions contained in this bill with the needed neutrality that the public has the right to expect of regulatory agencies formed for its protection. This independent status, bipartisan commissioners with staggered and fixed terms, would form insulation from the political and economic pressures such as exist in the executive branch.

An independent agency can give more objective, single-minded attention to consumer safety. An independent agency has undivided responsibility for product safety and can be more easily held responsible for any failures that occur. Competition for funding has grown more intense and all too frequently funding for needed programs goes unnoticed in the cumbersome budget requests of the superagencies. The authority to publicize budget requests and legislative recommendations by an independent agency without censorship or competition within an agency will enable the product safety function to compete more effectively for money, manpower, and authority. Independent status will help confer greater prestige on the regulation of product safety and make it more visable to the public. This public awareness, it has been argued, is one of the most important factors in stimulating an agency to exercise its full powers in the public interest. Public attention will stimulate consumer viewpoints as well as industry viewpoints.

And significantly, an independent agency would combine existing fragmented programs which are currently dispersed through approximately 30 different Federal organizations. Consolidation would lead to more effective, better coordinated attacks on consumer safety hazards.

Studies have shown the weaknesses and failings of the Food and Drug Administration are unlikely to be remedied from within the overwhelming structure of HEW. Morale problems, inadequate planning and communications problems of long duration have plagued the FDA, as well as insufficient use of its authority in protecting the consumer. The FDA has been dependent on private industry for much of the technical information and expert opinion about the safety of products. Accordingly, this prevents swift action by the FDA where there is controversy and industry opposition.

In addition to the need to establish a comprehensive and effective regulation over the safety of unreasonably hazardous consumer products, there exists the need to insure that procedures relating to consumer products are fair to both industry and consumers. The committee heard witnesses from industry documenting some of the potential difficulties that might be encountered in complying with the proposed regulations.

I believe that the committee has formulated legislation which for the first time affords industry and consumer groups the opportunity to directly participate in the development of safety standards. In other words, it is truly balanced in its approach to solving these important problems of consumer protection without penalizing the manufacturer.

Manufacturers and other interested parties are given the opportunity to develop proposed product safety standards. The Commission may, where appropriate, agree to contribute to the developers' costs. We are aware of no comparable provision for industry participation in the standard-development process in any other safety statute.

In addition, all final product safety standards or proposed bans must be issued after hearings pursuant to section 553 of title 5. The bill further requires the Commission to afford interested parties with an opportunity for oral presentation of arguments, requires that a transcript be kept, and that it be filed as a part of the record upon court review.

In a major departure from normal standards of court review of regulatory actions, this bill would provide court review of any product safety standard or ban, pursuant to the "substantial evidence" rule rather than the usual rule which sustains the agency's action if it is neither arbitrary nor capricious. Procedures under this legislation against "imminent hazards" would be by court action. The Federal Hazardous Substances Act, applicable to many consumer products, provides for administrative banning of imminently hazardous products.

Notification of the public of products presenting "substantial hazards" or products failing to comply with safety standards must be preceded by a hearing pursuant to the Administrative Procedures Act. Any recall order must be preceded by a formal hearing in accordance with section 554 of title 5. Repair, replacement, or refund is at the election of the manufacturer. Refund must be less reasonable allowance for use by the consumer.

This legislation prohibits the public disclosure of trade secrets or other sensitive material. It requires the Commission to notify each manufacturer of its intent to release any information at least 30 days prior to disclosure and offer an opportunity for comment. This provision is not found in any other safety legislation.

Civil penalties for violations of the act apply only where the violation was committed knowingly. Criminal penalties apply only where the violation was committed knowingly and willfully. Other product safety statutes provide for civil penalties regardless of intent.

Current State and local safety standards would be preempted by those included in this act. Exemptions could be obtained only by application to the Commission establishing they are required by compelling local conditions, would not unduly burden interstate commerce, and impose higher levels of performance than Federal standards.

An advisory council would be established, including representatives of industry and the small business community.

An injury information clearinghouse would be established to collect and analyze product-related accident statistics. This function is presently performed to a large extent by industry at its own expense. Such statistical information will better enable the Commission to determine the effectiveness of its programs and determine those areas where further study is needed.

The small retailer would be protected by permitting reliance upon the manufacturer's certification of compliance with a product safety standard or on the manufacturer's representation that the product is not subject to a safety standard.

This legislation clearly creates an atmosphere in which business can operate effectively within the consumer movement. As a lawmaker, my strongest concern is to make sure that when consumer legislation is clearly needed, such legislation provides an environment in which business can flourish under the free enterprise system while providing consumers the protection and information which is their right. This legislation provides that environment and that protection.

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

Mr. BROYHILL of North Carolina. I yield to the gentleman from Indiana.

Mr. DENNIS. I am wondering how much that environment is consistent with the provisions of section 16 which provides that this Commission can require the keeping of whatever records practically that it may desire, and can require admission of the Commission's agents to inspect those records, and when we then turn over to section 20 and section 19, if they have not kept the records the Commission laid down, or they have not let the Commission's agents in to see the records they said they must keep, the businessman can be fined $2,000 to $5,000 for a civil penalty. This is hard lines, and especially for a small business.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPRINGER. Mr. Chairman, I yield to the gentleman 2 additional minutes.

Mr. BROYHILL of North Carolina. Mr. Chairman, I do not think that anyone who is in business, who has a product safety standard applicable to them, is going to be reluctant to cooperate with this agency. I do not think anyone is going to want to slam the door or bar the door in order to keep one of the agents of this Commission away from his place of business. I think they are going to be willing to cooperate. The business people I have talked to that have been involved in safety legislation or complying with safety legislation that is already on the book, have had good experience with it, and I do not think there would be any more problems with this new Commission.

Mr. SPRINGER. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I want to make the observation that I have received mail, letters from business establishments stating that they feel this is a good bill, but I want to point out that I signed the minority view because the habit around here is to keep on adding new agencies to do more things that ought to be done with existing agencies that are already there. I think Members will recall in our great debate on the cancer bill that the administration recommend a totally new agency, the Senate bill set up a totally new one, but our Subcommittee on Public Health and Environment of the Committee on Interstate and Foreign Commerce felt we should keep what we have and mandate the agency to do a better job by certain guidelines and moneys to be set forth in the bill. So in this case here we had a bill, and the administration recommended that the job stay in HEW, and certainly we have a good place to start, but we start a new agency. This was my feeling and I signed the minority view.

However, we did reach an agreement on parts of the bill, where some of the jobs stayed in the context of the introduced bill, and Food and Drug stayed where it was, so we worked out a little bit of a compromise and I think in the right direction.

But I want to mention again as I did the other day that some of us have experienced that with the passage of a bill in the Congress, with a beautiful title and with all the beautiful objectives, we have found for example in the OSHA situation—the Occupational Health and Safety Act—that the enforcement process went way overboard, to the degree where we had to do an undesirable thing and say we can only make this apply in those situations where they employ above 15 employees, which is not a very good way to legislate, but perhaps there was no other place to turn.

So we need to be aware of the fact that when we set up these agencies to do many things, sometimes they overreact and sometimes we begin to move in the direction of blighting some of the objectives we seek in the bill.

However, I think the committee did do a pretty good job and we do find endorsement for the objectives of the bill and the bill itself.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CARNEY), a member of the committee.

Mr. CARNEY. Mr. Chairman, I am grateful for this opportunity to express my strong support of a bill which I have cosponsored, H.R. 15003, Consumer Product Safety Act. I take this opportunity also to say that the subcommittee worked very hard and to thank the members of the subcommittee and extend my best wishes to all the members of the subcommittee on both sides of the aisle, particularly to our subcommittee chairman, the gentleman from California (Mr. Moss), and the staff who did such an excellent job in alleviating a great many of the problems that arose between the members.

Mr. Chairman, I hope Members of this body will see fit to adopt this bill.

Mr. Chairman, as we are all too painfully aware, it is only recently that the consumer "has come into his own" in our society and that proper emphasis has been placed on his role in the modern economy.

As evidence of the new interest in the consumer, during the past decade, we in Congress have enacted a broad battery of legislation designed to promote fairness in the marketplace. This bill before us today is a further step in advancing the cause of the consumer.

It is considered self-evident that the public is entitled to purchase products without subjecting themselves to unreasonable risk of injury or death. At the present time, however, consumers are not able to confidently rely on the safety of products which are distributed for their use or enjoyment.

Mr. Chairman, this legislation proposes that the Federal Government assume a major role in protecting the consumers from unreasonable risks of death, injury, or serious or frequent illness associated with the use of or exposure to consumer products. To carry out that objective, this bill would create a new, independent regulatory commission with comprehensive authority to take action across the full range of consumer products to reduce or prevent product-related injuries.

This independent regulatory Commission would have the authority to: First, collect and disseminate information on consumer product-related injuries; second, establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or—where such standards are not feasible—to ban the product from the marketplace; third, obtain equitable relief in the courts to protect the public from products which pose imminent hazards to health and safety; and fourth, administratively order the notification and remedy of products which fail to comply with commission safety rules or which contain safety related defects.

To me what is most important in this legislation is that we can no longer propose individual legislation designed to deal with the product hazards which had been identified. But rather, we must abandon this case-by-case approach to product safety and consolidate in a single agency authority sufficient to regulate the full spectrum of products which are sold to or used by consumers.

I have long supported consumer legislation such as: The Flammable Fabrics Act, Radiation Control for Health and Safety, the National Traffic and Motor Vehicle Safety Act, the Child Protection and Toy Safety Act—to name just a few. But now it is time we move a step further and I feel that H.R. 15003 is that step—this is the type of legislation 1972 calls for.

As a member of the Subcommittee on Commerce and Finance which developed this legislation, I can testify to the careful and extensive deliberations that went into this legislation. Every effort has been made to bring out a bill that will protect the American consumer and at the same time be fair to industry. The need for this legislation is obvious. The Department of Health, Education, and Welfare reports that 30,000 persons are killed, 110,000 permanently disabled, and 585,000 hospitalized every year in accidents associated with consumer products.

Approximately 7,000 of those killed are children under 15 years of age—a death toll higher than that of cancer and heart disease combined. Among the categories of consumer products which were found by the National Commission on Product Safety to include unreasonable hazards were such commonly used products as: architectural glass, color television sets, fireworks, floor furnaces, glass bottles, high-rise bicycles, hot-water vaporizers, household chemicals, infant furniture, ladders, power tools, protective headgear, rotary lawnmowers, toys, unvented gas heaters, and wringer washers.

These hazards are not necessarily the fault of any one individual or group. They are the result of impersonal forces which have trapped producers, sellers and buyers into inability to adequately consider safety in the production and uses of consumer products. This legislation opens a new era of national awareness of the unacceptable toll of home injuries. It is not expensive legislation. The annual economic cost of injuries associated with consumer products may exceed $5 billion according to the National Commission. Many products can be made safer at little expense. For example:

The magnetic latch on refrigerators, to prevent entrapment, adds nothing to the consumer's cost.

A double-insulated drill sells in the same price bracket as other top-line drills without double insulation. The manufacturer says the double insulation added little to his costs.

TV sets whose fire records were below average sold in the same price range as those above the average.

The wringer washer judged to have the safest instinctive release by Consumers Union sells at about the same price as others tested.

Mr. Chairman, the heart of this legislation is the establishment of an independent consumer product safety commission. Since the unanimous action of the subcommittee, many business groups have advised me that they are not as concerned with the structure of a product safety agency as they are with being afforded an adequate administrative hearings, due process and judicial review. These protections the committee has carefully written into the bill.

I urge my colleagues to support the Consumer Product Safety Act as reported. American consumers will thank you.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska (Mr. McCOLLISTER), a member of the committee.

Mr. McCOLLISTER. Mr. Chairman, I suppose no Member has any greater concern for the problems of the small businessman than have I, having been one only so recently.

In consideration of this legislation, we were faced with the problem of dealing with that increasing burden of regulation and reporting, and at the same time dealing with a very real problem that exists in product safety. It is my feeling, my strong feeling, that this bill does represent a very good balance between limiting the burden and yet providing the remedy that is needed.

Reference has been made by the subcommittee chairman (Mr. Moss) and by the gentleman from Texas (Mr. ECKHARDT) concerning the high degree of openmindedness and give and take in this committee's action on the bill. Though my view is necessarily more limited in scope than theirs, certainly of all the bills that we have considered in this subcommittee this year and this session. I could not imagine any better attitude existing than what prevailed as we considered this legislation.

There was an openmindedness and the majority was willing often to consider amendments which answered to the concern that the minority expressed. I wish to join in the tribute paid to every Member of that subcommittee in that kind of approach to the problem.

In testimony before the Subcommittee on Commerce and Finance, Mr. Arnold B. Elkind, former chairman of the National Commission on Product Safety, said that:

* * * the laissez-faire approach to consumer products costs the American public about 20 percent of the overall toll that the public pays in injuries or deaths for the privileges of enjoying consumer products. This translates into 6,000 lives, 22,000 cripples, 4 million injuries, and $1.1 billion in treasure that could be saved each year by an effective system for making products safe to use.

The well-supported conclusion of our committee was that a comprehensive Federal consumer product safety mechanism was needed, to balance the equities between the consumer and the manufacturer. On the one hand, manufacturers are not sufficiently influenced by competitive forces to dedicate themselves to the production of safe products. The Commission and our committee found that self-regulation in the area of product safety just is not enough. On the other hand, the consumer has an ever-increasing appetite for technologically advanced products which he may not understand, which he cannot therefore evaluate in terms of safety and which may pose potential for harm either intrinsically or in a specific application.

Our committee has developed a mechanism in H.R. 15003 that balances the need for safety with the need for fairness to the manufacturer. It impacts on the manufacturing process in a minimal way and yet will be effective to prevent needless injury.

I am likewise enthused about the procedures established by the committee to carry out the mandate for Federal action. By placing the administration of consumer product safety in an independent regulatory agency, vested with new authority, we are confident that the intent of Congress will be carried out with cold neutrality and be insulated from undue economic and political pressures—more than would be possible or likely if the agency was a part of a Cabinet-level department, and with more dedication to fairness and effectiveness than if the agency was a part of, or if its authority was given to, an already existing regulatory agency. The effectiveness of the regulations is assured because this bill provides that industry and consumer groups will have an opportunity to participate in the standards writing process. We will not have illogical and impractical regulation because the experience and technological expertise of industry and consumer organisations will be utilized to the maximum extent possible, and within a framework of protection for the views of each, since the committee has beefed up the rulewriting procedure by allowing oral presentation of arguments, the keeping of a transcript, and an improved basis for judicial review. The new agency's necessary authority to recall unsafe products likewise has built-in protections for the manufacturer in pre-recall hearings, and these hearings will not unduly delay the removal of unsafe products or repair, replacement or refund.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, I am concerned. What we have here is another bill to create another Federal bureaucracy. Where the Food and Drug Administration has inspectors across the Nation now responsible for foods, drugs, and product safety, we are going to start a new agency to duplicate that field staff. And, in addition, we are going to have one more new consumer agency. Pretty soon the free enterprise system in this country is going to need a roadmap just to chart its way through all the different official Ralph Naders as well as every overzealous newspaper reporter.

Now obviously I, and every Member here, want to protect the American consumer. The regulatory authority provided in this bill would add an aditional measure of safety particularly with respect to products such as appliances that are now exempt from any form of regulation. The Government Accounting Office has just issued a report outlining other deficiencies in legislative authority which the Congress will have an adequate opportunity to carefully consider in the future. But we do not need to create a new Government agency every time we identify a class of products that somehow escapes regulation. The Secretary of HEW has described these organizational provisions as nothing more than a phony bill of goods.

I have not always agreed with the FDA especially with their administration of the Delaney clause and the regulation of DES in animal feed, but under Commissioner Edwards' capable leadership, I believe FDA has moved effectively to meet the needs of a modern and rapidly changing technological society which is making increasing demands on Government. And I believe FDA is already doing an outstanding job in giving the American public the best protection in the world against harmful consumer products. I don't think we are going to help FDA do a better job by creating a new Federal agency to regulate can openers and tricycles.

The people I represent in Iowa want their food supply to be safe and nutritious. They do not want to buy household products which are hazardous. Parents in Council Bluffs want their children's toys to be safe but no one in the Seventh District of Iowa believes their hard-earned money has to be further taxed to support another new Government agency in Washington.

I am opposed to another layer of expensive and extensive bureaucracy.

This proposal would result in splintering product safety regulation and would also result in serious duplication. A separate field force of inspectors and field laboratories would be required.

An injury information system similar to that of FDA and similar administrative machinery would have to be established by the Commission. The related health expertise of other Departmental agencies would also not be as readily available to a Commission and the Department would be deprived of providing a single direction to health matters.

I think such a move would be counterproductive and would recommend that the needed legislation be assigned to the Department of Health, Education, and Welfare.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. JONAS).

Mr. JONAS. Mr. Chairman, I should like to invite the attention of the Chairman of the Committee and other Members to section 23 on page 102. It strikes me that this section ought to be labeled an act for the relief of lawyers. What you are authorizing here is that any per-

son who claims he has sustained personal injury or illness by reason of the failure of a product to comply with the rule may sue not only the manufacturer of the product or the distributor but also the retailer.

And he can do so in the Federal court regardless of the amount in controversy, and not only obtain damages, but the payment of his legal fees and expenses.

What is to prevent the filing of a multitude of frivolous suits? There is no liability imposed upon the plaintiff if he files a frivolous suit or one that is without merit. Retailers in every municipality and locality in the United States will probably be taken into Federal court even though the claim is a small one. I just cannot imagine how the overcrowded Federal courts are going to be able to handle what I predict will be a multiplicity of suits brought by people who allege that they became ill as a result of the use of some product. Now, may I inquire if this subject was explored by the subcommittee, or was it discussed within the committee? It seems to me that this opens up a wide area for litigation which may or may not be meritorious. I am afraid that this section is going to cause far more than it will provide benefits, and I think it ought to be tightened up.

I just wonder if that subject was explored by the committee or the subcommittee?

Mr. ECKHARDT. Would the gentleman yield?

Mr. JONAS. I will be glad to yield to the gentleman.

Mr. ECKHARDT. The subject was considered by the committee and the subcommittee. The provisions of the bill most directly applicable to the question is the language in section (b) on page 103, at line 19.

We were concerned about the possibility of a great number of suits being brought merely because a product resulted in injury. We did not wish to open that wide a gate, so we placed these limitations:

(b) In the case of an action brought for noncompliance with an applicable consumer product safety rule, no liability shall be imposed under this section upon any manufacturer, distributor, or retailer who establishes (1) that he did not have reason to know in the exercise of due care that such product did not comply * * *

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. BROYHILL of North Carolina, Mr. JONAS was allowed to proceed for 2 additional minutes.)

Mr. JONAS. I am familiar with that section, but the trouble is that you require the defendant to come into court and prove that he did not have reasonable notice or was not aware of this; you do not impose the burden upon the plaintiff or any burden, except to prove that he was injured.

I do not believe this section would be subject to much criticism if the suit were restricted as against the manufacturer, but here you are going to open up the Federal courts to suits against every retailer in the United States. And he has to hire counsel. And what if he prevails? Who is going to pay his costs? And what if he wins the suit? Who is going to pay his damage? Nobody.

Mr. ECKHARDT. Will the gentleman yield?

Mr. JONAS. I yield to the gentleman.

Mr. ECKHARDT. The burden would be on the plaintiff first to show that the victim died or sustained personal injury——

Mr. JONAS. Or became ill.

Mr. ECKHARDT. Or became ill because of failure to comply with the applicable consumer standard.

Now, the burden would be on the plaintiff not only to show that the injury resulted, but that it was as a proximate cause of a failure of the product to comply with the consumer product standard. But even if the plaintiff sustained this burden and showed that the product was below the consumer standard—and this is a burden on the plaintiff—then the defendant could come in with an independent defense and could show that even though the product did not comply with the standard, he did not have reason to know in the exercise of due care that such product did not comply.

For instance, he had a very carefully conducted quality control program in his plant, and this managed to slip by.

Mr. JONAS. You are talking about the manufacturer. The retailer and the man who runs the retail store in a little country community does not have any quality control. He is not a manufacturer. How do you justify imposing that burden on him?

Mr. ECKHARDT. It actually would not lie against him, because it would not be by reason of a failure of a consumer product to comply with an applicable standard. This man would not be guilty of any offense.

Mr. JONAS. You allow the retailer to be sued.

Mr. MOSS. Will the gentleman yield to me briefly on that point?

Mr. JONAS. I yield to the gentleman.

Mr. MOSS. In this instance we have to include retailers because there are categories for them. Only in controlling both manufacturer and distributor of the main products.

Mr. JONAS. What about an operator of a country store in a small community? He buys this product in good faith. It is the manufacturer who ought to be held responsible and not the retailer. He should be required to come into court and defend a suit.

Mr. MOSS. I can conceive of no attorney acting on behalf of a plaintiff in those cases not joining the manufacturer and possibly the distributor in the suit.

Mr. JONAS. He may not be able to join the manufacturer who may not have an agent in that district.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. I yield the gentleman 2 additional minutes.

Mr. ECKHARDT. Will the gentleman yield further?

Mr. JONAS. Yes.

Mr. ECKHARDT. It is further provided on page 104:

In the case of an action for noncompliance with an order under section 15, no liability shall be imposed under this section upon any manufacturer, distributor, or retailer who establishes that he took all steps as may be reasonable in the exercise of due care to comply with such order.

The retailer is not under any order, so all he has to show is he was not under an order in order to be completely relieved of any possible liability.

Mr. JONAS. As I read the bill, I think he will be required to go into court and hire a lawyer to establish his defense. I think that is going to be very burdensome to a retailer acting in good faith and who is not responsible for the placement of the product on the market. He did not manufacture it. I think this section might have been all right if it were restricted to the manufacturer.

I have had some little experience in the practice of law, and I know how crowded the courts are. My prediction is you will have the Federal courts filled up with a multitude of suits involving very small sums of money against retailers all over the United States.

Mr. ECKHARDT. Will the gentleman yield for one comment on this point?

Mr. JONAS. Yes.

Mr. ECKHARDT. Of course, anyone can bring a suit contending that there is product liability because the product was negligently built. It would seem to me a bill of this nature that sets standards and gives relief against those who violate those standards would tend to channel such actions as would be otherwise brought under common law under the statute and against the manufacturer. So I think, if anything, we have protected the retailer by this action.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Missouri.

Mrs. SULLIVAN. I thank the gentleman for yielding me this time.

I rise to ask a question of the chairman of the committee or the gentleman from California.

I would like to know whether any consideration was given in the committee to the idea of bringing the Food and Drug Administration under the new independent regulatory commission created by this bill. The bill transfers to the new agency some of the present responsibilities of the FDA in the field of hazardous substances and poisonous product packaging.

I note that the minority report deplores the establishment of an independent agency rather than giving the Food and Drug Administration all the authority that this bill gives to the new commission. And I note also that the Senate bill, on the other hand, transfers FDA, lock, stock, and barrel, to the new independent agency.

Can the gentleman tell me how much consideration was given in committee to doing what the Senate did in transferring FDA to the new agency?

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

Mrs. SULLIVAN. I will be happy to yield to the gentleman from California.

Mr. MOSS. Consideration was given only to the extent that the committee

determined that it would not take that matter under consideration.

It was not part of the recommendations of the Commission on Consumer Product Safety, and it did not lie properly within the jurisdiction of the subcommittee. Our committee did not feel that it had before it either at the time of commencing its hearings, or at the conclusion of them, sufficient evidence to reach a decision. We left that to the Subcommittee on Public Health, which deals with the Food and Drug Administration.

Mrs. SULLIVAN. I thank the gentleman. And if the gentleman will permit, I have one further question: As one who worked with the Food and Drug Administration very closely when I came to the Congress in 1953, and for many years thereafter, I must say that I am far from satisfied with the way its powers within the Department have been limited and restricted so that, it seems to me, decisions are often made at the top in the Department, not on scientific and public safety considerations, so much as they are on political bases.

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

Mr. STAGGERS. Mr. Chairman, I yield 2 additional minutes to the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. I thank the gentleman for the additional time.

And if I may continue, we had that situation in the cyclamates; we have it again on the DES issue. I think the Food and Drug Administration has been submerged in HEW. I wonder, does the gentleman agree?

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

Mrs. SULLIVAN. I will be happy to yield to the gentleman.

Mr. MOSS. For 16 years, as a member of the Committee on Interstate and Foreign Commerce through the administration of both political parties, I must confess to less than enthusiasm over the performance of the Food and Drug Administration. They are not a ball of fire, and they are not an example of one of the most effective or efficient agencies of our Government in my opinion.

Mrs. SULLIVAN. I thank the gentleman.

Mr. Chairman, as one who has served in the past on two national study commissions created by Congress, the National Commission on Food Marketing, and the National Commission to Study Mortgage Interest Rates, and am currently serving on a third, the National Commission on Consumer Finance, I know how much time and effort can go into the study of a major national problem through the Commission method of approach and how often the hard work done by a Commission is compressed into a final report which is filed and forgotten. Thus, it is a matter of great encouragement to me that the National Commission on Product Safety, which did an outstanding job of spotlighting the gaps in our consumer protections from unsafe household products, has not had its final report relegated to the dusty shelves to be neglected and ignored.

This bill now before the House is a concrete and emphatic consequence of the 2-year study by the Commission on Product Safety made by Chairman Arnold B. Elkind of New York and six associates, including two men whose work in the consumer field have been well known to me for many years—consumer writer Sidney Margolius, who writes a weekly column syndicated by the Machinist newspaper, and Senate Commerce Committee Staff Counsel Michael Pertschuk. I salute all seven members of this fine Commission for a remarkable job in the public interest. It was a personal privilege for me to appear before the Commission on Product Safety at one of its public hearings to discuss the consumer aspects of their work.

Mr. Chairman, I support H.R. 15003 as recommended by the Committee on Interstate and Foreign Commerce to carry out the proposals of the National Commission on Product Safety. It is one of the most important consumer measures to come before Congress in the past 4 years.

LETTER IN 1964 FROM MRS. FLORIS MILLS

It is always hard to pinpoint the origin of any major piece of legislation since, of course, many people become involved independently of each other in the development of an idea for legislation. But it is my belief that a letter I received in April 1964, from a resident of the St. Louis area, Mrs. Floris Mills of Webster Groves, Mo., may very possibly have provided the initial impetus for the proposal which led to the establishment of the National Commission on Product Safety and thus for the eventual development of H.R. 15003. In her letter to me, Mrs. Mills wrote, in part:

DEAR MRS. SULLIVAN: It should be mandatory for all persons responsible for the health of the public to report to a central agency all accidents or diseases clearly related to some product which has been shipped in interstate commerce.

The average person, including many public health officials and doctors, does not know what to do when such a product causes an accident. Usually, each incident "dies" with the patient, or is forgotten if recovery is made. Many such accidents may happen before someone who care takes action and brings a report to the proper authority. Therefore, the U.S. Public Health Service, or other designated agency, should place in the hands of all doctors, etc., mandatory reporting forms with adequate provision for the gathering of sample material, and information necessary for the tracing of the source of the material.

Such reports should cover accidents to non-human life as well as human. Such reporting could be provided for under laws now being administered without further Congressional action.

I replied to Mrs. Mills that I would refer her suggestion to the heads of a number of agencies and ask for comments and advice, adding—

It is very possible that the kind of thing you recommend can be carried out without the need for special legislation, but I am going to let them tell me so.

RESPONSES FROM AGENCIES

I thereupon wrote to Surgeon General Luther L. Terry of the U.S. Public Health Service, Commissioner George P. Larrick of the Food and Drug Administration, Administrator Byron T. Shaw of the Agricultural Research Service, and Chief Katherine B. Oettinger of the Children's Bureau. The replies indicated that, first, the proposed project could not be carried out under existing legislation; second, some work of this nature was being done by PHS, however, through its Division of Accident Prevention; third, the Poison Control Centers were making an outstanding contribution to physicians and first-aid centers in saving the lives of children who had ingested dangerous chemicals, but deaths and injuries from these sources were occurring at an alarming rate; and, fourth, flavored baby aspirin for children was the leading cause of death from poisoning of children under 5. This led me to incorporate in all subsequent versions of H.R. 1235, my omnibus bill to rewrite the Food, Drug, and Cosmetic Act of 1938 a section prohibiting the manufacture and sale in interstate commerce of flavored aspirin. This bill in turn led to introduction in 1966 of the Child Safety Act as a counterproposal of the Johnson administration.

In the hearings on that bill I submitted for the printed hearing record about 40 pages of official documentation compiled by Government agencies of the problems cited by Mrs. Mills in her letter of 2 years earlier.

The Product Safety Commission was authorized in the next Congress, to make a thorough study of all of the household hazards which confront the American family. The Commission went on to establish beyond any doubt the need for stronger laws to protect the consumers of this country from the death-dealing, disfiguring, crippling, scarring, and blinding appliances and household products and equipment we are constantly being urged to buy.

THE FOOD AND DRUG ADMINISTRATION

As the work of the Product Safety Commission clearly established, and as the report of the committee on H.R. 15003 amply illustrates, the Food and Drug Administration, despite vast increases in its appropriations over the past 20 years, has not been able to carry out its responsibilities to the public in a manner to give us sufficient assurance the public is adequately protected. When I came to Congress in 1953, the budget for this agency was in the neighborhood of $5 million. Now it is approaching $200 million. In the interval, there has been a tremendous increase in the scope of the agency's responsibilities in the fields of pesticides, 1954; food additives, 1958; color additives, 1960; hazardous substances, 1960; drug efficacy and safety, 1962; child safety, 1966; and toy safety, 1969.

But while the agency's responsibilities and funds were being drastically increased, the FDA itself was being downgraded within the Department of Health, Education, and Welfare in a series of administrative reorganizations which placed it below more and more layers of bureaucratic supervision and policy direction—or interference.

In consequence, decisions of the agency which should have been based entirely on scientific and legal determinations intended to protect the consuming public have been imposed from above, in too many instances, to reflect political

judgments, from the cyclamates fiasco to the present indefensible position on diethylstilbestrol—a policy which permits the continued use of a cancer-causing growth hormone in beef cattle feed until present stocks are used up, in disregard of the fact that the law clearly prohibits further use of diethylstilbestrol—DES—in animal feeds now that evidence has finally surfaced that residues of the hormone are apparently impossible to keep out of beef carcasses intended for human food.

As cosponsor with Congressman DELANEY of the 1958 Food Additives Act, including the Delaney clause prohibiting the use in food of any chemical or ingredient which can cause cancer in man or in animal, and as the unsuccessful opponent in 1962 of a provision of the Kefauver-Harris Act modifying the Delaney clause as it related to use of diethylstilbestrol in animal feeds, I see no justification of any kind for the continued use of the hormone now. I was promised in the 1962 battle on the House floor that if residues of DES should ever show up in the meat supply, all animal feeds containing DES would instantly be withdrawn from use. That has not happened.

COSMETICS AMENDMENTS TO SENATE BILL

It has not happened, I am convinced, because the economic impact on the cattle industry was given greater consideration than the public health in this matter.

The FDA deserves to have enough administrative elbowroom to do its job regardless of political consequences. I believe the Senate was right in placing the functions of FDA, and its personnel, into a new agency set up for one purpose only—to protect the public safety.

Had this been done also in the House bill, I would have tried to amend the bill, as Senator EAGLETON did in the Senate, to tighten the powers of the agency to regulate cosmetics. As it is, such amendments to the House bill would not be germane.

I sincerely hope that when the bill goes to conference, the House conferees will study the Senate provisions with an open mind. If FDA, in the final version of the legislation, is placed under the proposed independent consumer product safety agency, I would like to point out that the Eagleton amendments on cosmetics represent a very limited approach to the problem of cosmetic safety, dealing only with the labeling of cosmetic ingredients. This would be of great importance to millions of Americans who are allergic to various cosmetic chemicals, but it would not get to the basic problem of preclearance of cosmetics for safety before they are sold. The Eagleton amendments deserve support as far as they go. I hope they can be agreed to in conference.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. DENNIS).

The CHAIRMAN. The Chair must inform the gentleman from North Carolina that the gentleman has only 3 minutes remaining.

Mr. BROYHILL of North Carolina. I thank the Chairman, and I yield the gentleman from Indiana the remaining time.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for that courtesy, and I will take advantage of it because I think the point made by the gentleman from North Carolina (Mr. JONAS) is a very important one and one that I would like to associate myself with, and I would refer to that point.

This bill not only gives an independent action for damages, regardless of the jurisdictional amount, regardless of the amount of money involved, in Federal court, to the private individual, it also gives him a right to enforce the statute itself by a private suit, and both the Chief Justice of the United States and the president of the American Bar Association, have had occasion to point out the problem of burdening our Federal courts with unnecessary business and additional business that they are not equipped to handle.

Now one way at least which could ameliorate that situation would be an amendment to this section, the section which the gentleman from North Carolina (Mr. JONAS) was talking about, which would at least restore the jurisdictional amount.

As we all know, ordinarily to get in the Federal court in cases of this kind, you have to have in excess of $10,000 involved. Here you could have $15 involved.

I am wondering whether the committee would consider favorably an amendment to the section on page 102 which we have been talking about, section 23, which would reestablish the ordinary jurisdictional amount of $10,000 for these suits in Federal courts.

It seems to me that that would go at least some way to ameliorate the situation which the gentleman from North Carolina (Mr. JONAS) pointed out and which I think is a very real one, if you want this law to operate efficiently and fairly.

I would be glad to know what the view of the committee would be as to such an amendment as that I am now suggesting.

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

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding me the additional time.

I hope that my time will be used by a response from somebody in management of the bill. I would really like to know, if I or some other Member offers an amendment of the kind that I have indicated, what the position of the committee will be.

It seems to me it would be a very reasonable thing to do here. Just why should we repeal the jurisdictional amount of $10,000 to get into the Federal court for this one type of suit? If it is a good general limit, and I think we mostly think it is—why should it not apply here as it does everywhere else?

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

Mr. DENNIS. I yield to the gentleman.

Mr. ECKHARDT. To strike the words "without regard to the amount in controversy," we would not in any way change this statute because as I understand the Federal jurisdictional law, if a right is created under the commerce clause of the Constitution, the $10,000 amount in controversy is not a limitation.

Section 1331 applies to cases arising under diversity of citizenship and not under a Federal right arising under a Federal statute.

So we are not changing the Federal law—we are simply enunciating it. So far as I know, every case which is brought under an act of Congress arising under the commerce clause which does not specifically create a jurisdictional amount may be entertained by a Federal court without respect to the amount in controversy.

The gentleman might want to put in a limitation—but this is not an unusual act—it is a typical act as it stands.

Mr. DENNIS. My memory is that section 1331, and it may not be very clear, of course, is that it applies to civil suits arising under the laws of the United States, which I would have thought would have applied here.

But, assuming for the moment that the gentleman is correct, I call attention to the fact that at least you wrote in here "regardless of the jurisdictional amount," which indicates to me that the committee felt that if they did not write that in there, they would run into the jurisdictional amount.

Pursuing this further, why not, in any case, take up the suggestion that the gentleman just made and propose an amendment here which says—

This is subject to the provisions of Section 1331 as to the amount in controversy.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, in the first place I did not propose that we write in a jurisdictional limitation.

I was simply pointing out that there would be no jurisdictional limitation if we had not used the words "without regard to the amount in controversy." This case would be governed by section 1337 which says:

The District Court shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. DENNIS. I thank the gentleman.

Regardless of whether the jurisdictional provision does or does not apply here in the absence of the language "regardless of the amount in controversy" in the bill as now drawn, I would like to know whether the committee would be inclined to accept an amendment which specifically wrote in that the jurisdictional amount of $10,000 would apply in this particular type of suit.

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

Mr. DENNIS. I yield to the gentleman.

Mr. LATTA. Mr. Chairman, I think

the gentleman from Indiana and the gentleman from North Carolina have raised a very valid point.

Justice delayed is often justice denied and in our haste to pass this important legislation we might have overlooked its impact on our Federal court system. The Chief Justice of the United States in a speech on August 14, 1972, referred to this matter, and I read it in part——

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman 1 additional minute.

Mr. LATTA (reading):

> But there is no escape from constantly enlarging the federal judicial establishment except to adopt new judicial methods and improve performance as we are trying to do, and to have Congress carefully scrutinize all legislation that will create more cases.
>
> In recent years, Congress has required every executive agency to prepare an environmental "impact statement" whenever a new highway, a new bridge, or other federally funded projects are planned. I suggest, with all deference, that every piece of legislation creating new cases be accompanied by a "court impact statement", prepared by the reporting committee and submitted to the Judiciary Committees of the Congress with an estimate of how many more judges and supporting personnel will be needed to handle the new cases.

That is the end of part of the statement by the Chief Justice of the Supreme Court. I think these two gentlemen have raised a very important question with which this Congress should be concerned. If we are going to give all of this additional responsibility to the courts, we should give them the necessary tools to do the job.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. I yield to the gentleman 1 additional minute.

Mr. DENNIS. I thank the chairman. I should like to have the time used for some response to my inquiry as to the view of the committee on the amendment.

Mr. STAGGERS. I just say to the gentleman from Indiana the committee would have to resist the amendment because that would put it in a class for only those who own Rolls-Royces. We are preparing the bill for the protection of all of the people of the land so that they will have recourse.

Mr. DENNIS. I thank the chairman, but I must say I have brought many $10,000 suits for people who never saw a Rolls-Royce.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. I thank the chairman for yielding.

I want to ask two questions of either the chairman or the subcommittee chairman. I notice in section 3(A)(1) there is no language excluding persons covered by the Natural Gas and Pipeline Safety Act, as contained in the Senate version, S. 3419. This was brought up in our committee, and it is my understanding that it was not the intent of the committee to subject this safety program to product safety standards as prescribed in the bill, since the safety aspect on natural gas and its use is presently covered in the Natural Gas and Pipeline Safety Act.

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

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

Mr. MOSS. On page 59, line 10, under (A):

> Any article which is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer—

It was the consensus of the committee that a gas pipeline was not sold for that purpose, and we had no intention of including it within the scope of authority of the Commission.

Mr. PICKLE. I thank the gentleman.

May I ask one other question regarding subsection (c) of section 15 which provides that the Commission may call for public notice by the manufacturer of a dangerous product. Would it be possible for this Commission which we are creating by this act to compel a television or radio station to sell or to give time to an offending manufacturer or distributor or retailer for the purpose of complying with the order requiring public notice?

Mr. STAGGERS. No. It is made perfectly clear in the report that this is not the case.

Mr. PICKLE. I thank the gentleman.

Mr. BURKE of Florida. Mr. Chairman, I rise in support of H.R. 15003, the Consumer Product Safety Act.

The appalling dangers that are ever present in the American home compels me to do so. Each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. In fact, home accidents reap a death toll among children under the age of 15 higher than that of cancer and heart disease combined.

Perhaps we have been more concerned with chemicals that will clean an oven, remove spots from rugs, keep things from sticking to pans, or clean the bathroom than in the safety of the users. Children cannot always read labels and even the most careful mother cannot always be watching.

Our technology has been geared more with beauty than with safety. Sliding doors to balconies and terraces bring nature to the inside of a home, but, children and pets and even some adults cannot always discern whether the door is open or closed and as a result there are many incidents where people have been badly cut or scarred.

Children who lived years ago in the wild West, or in the wilds of jungles, had only forces of nature to worry about. On the other hand we surround our children and ourselves daily with products that could do us bodily harm.

Regrettably, for various reasons we have been slow, even reluctant, to act to improve product safety. Recently Congress has become more active and exhibited an increasing concern with the safety of the products which consumers buy and use in their daily lives. This concern has been manifested by the passing of a series of acts designed to deal with specific hazards and categories of products for which a substantial regulatory need had been established. These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Act Amendments of 1967, the Radiation Control for Health and Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970.

The National Commission on Product Safety found after a 2-year study, conducted from 1967 to 1969, that—

> Such limited Federal authority as does exist is scattered among many agencies. Jurisdiction over a single category of products may be shared by as many as four different departments or agencies. Moreover, where it exists, Federal product safety regulation is burdened by unnecessary procedural obstacles, circumscribed investigative powers, inadequate and ill-fitting sanctions, bureaucratic lassitude, timid administration, bargain-basement budgets, distorted priorities and misdirected technical resources.

There are those who will argue that existing Government machinery is presently adequate enough to handle the product safety problem and they suggest that the Food and Drug Administration and HEW be given larger roles. Both of these agencies have done good work in some of their areas of expertise but no agency is perfect. I feel also that it is unfair to saddle several agencies with separate responsibilities to administer consumer safety programs. It is unfair to the consumer and it is unfair to the agency. To do this is being penny wise and pound foolish.

The legislation before us today proposes that the Federal Government assume a major role in protecting the consumers from unreasonable risks of death, injury, or serious or frequent illness associated with the use or exposure to consumer products. To carry out this goal, H.R. 15003 would create a new independent regulatory commission with comprehensive authority to take action across the full range of consumer products to reduce or prevent product-related injuries.

This independent regulatory commission would be vested with authority to:

First, collect and disseminate information on consumer product-related injuries.

Second, establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or—where such standards are not feasible—to ban the product from the marketplace;

Third, obtain equitable relief in the courts to protect the public from products which pose imminent hazards to health and safety; and

Fourth, administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety-related defects.

The bill would also provide a system of product certification and permit the Commission to compel inclusion of cer-

tain safety-related information in product labels.

While I am loathe to increase the plethora of Government agencies, and even more loathe to spend the taxpayers money unnecessarily, I feel the time has come when we acknowledge that a man's home, even though it is his castle, is also often his boobytrap, and that strong Federal action must be taken to reverse this trend. The building block of our society is the family, and the family home should be a happy one, safe from harm so that life in America for all families will be protected against the intrusion of injury from casual purchases made at the grocery store in good faith and in reliance on the manufacturers responsibility to insure safety to all Americans.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 15003 which will protect consumers against unreasonable product hazards.

This bill will establish an independent regulatory commission with plenary authority to prevent and reduce product-related injuries to consumers. The Commission will have the power to collect and disseminate information on consumer product injuries, establish mandatory safety standards, and obtain equitable relief in the courts to protect the public from imminent hazards. At present, there is a lack of a central agency to collect data on product-injury victims, and Federal safety standards for products exist only in a few industries.

Also, the commission will be empowered to administratively order the notification and remedy of products which fail to comply with the safety standards which it proclaims.

Today it is estimated that there are over 30,000 deaths and 20 million injuries every year in and around the house. Product-related injuries cost the economy almost $5 billion every year. The death toll among children under age 15 from product-related accidents is greater than from cancer and heart disease combined. The time has come for Congress to insure that defective and hazardous goods do not find their way into the marketplace.

Prior to this act, the Federal Government has never had a comprehensive program to protect consumers from injuries due to defective products. Rather, Congress has utilized a knee-jerk, hit-and-miss approach which has produced legislation to meet a crisis situation in one area and completely overlooked the larger problem.

Until now, it has been the courts which have been in the forefront developing protection for people injured by defective products. The growth of the doctrine of strict liability under the rubric of "products liability" over the last 15 years is the necessary outgrowth of a society of the mass-produced and multihandled product. The problem with the approach is that it can only aid people after they have suffered injury but it cannot protect them from the initial contact with the improper goods. This bill is the legislative counterpart of the growth of a products liability. It offers the consumer a means of protection from defective goods before they reach the marketplace by providing the Government with effective judicial remedies to deal with defective products. I commend the passage of this legislation to all my colleagues.

Mr. RONCALIO. Mr. Chairman, the Committee on Commerce, in bringing this bill to the Hall of the House, has wisely excluded from the definition of consumer product certain categories which are either now regulated under other safety laws or which it feels may not be amenable to safety regulation as envisioned by this measure. Among the exclusions are firearms and ammunition, which the amendment offered by the gentleman from New York would include in the rather broad coverage of this legislation.

Inclusion of firearms and ammunition in the scope of this bill is viewed by my constituents as a dangerous step toward the type of gun control legislation they adamantly oppose. What it would do is give to Federal agents the authority to establish mandatory safety standards; to conceivably ban those products from the marketplace, even. So, what have we? A back-door approach to gun control which could go far beyond the measure now pending or the bill recently enacted by the other body to control, we have been told, only cheap domestically produced handguns. My views on that measure are well known. It, too, would give too much discretion to the administrators who would enforce it.

Mr. Chairman, the amendment before us would not stop with so-called cheap handguns. It would include the hunting rifles, shotguns, and the components needed by sportsmen and ranchers of my State. Should we agree to this amendment, we would not even know what we were agreeing to in the way of eventual interference with our way of life. Guns and ammunition already are subject to regulation, Mr. Chairman. I believe the committee acted wisely in not including them in the coverage of this bill.

And I certainly hold firmly the belief that, if Congress is to act to broaden the regulation of firearms and ammunition, it must be quite specific in its language, its definitions, and its purpose. It is quite beyond my belief that this body would delegate such responsibility to a new, independent regulatory Commission, such as the one to be created if this bill is enacted. Nor does this bill need the encumbrance this amendment would burden it with. Those Members who support this legislation should realize that and join me in opposing the amendment.

Mr. FOUNTAIN. Mr. Chairman, I am usually extremely hesitant to support new avenues, because, as has been said, we already have too many, but HEW is already big enough and FDA has a big enough job if it protects us from unsafe foods and drugs which it is not adequately doing today. I rise in support of H.R. 15003, a bill to provide better protection for consumers from unreasonably hazardous products.

Ordinarily, I would favor enlarging the consumer protection responsibilities of the Department of Health, Education, and Welfare to include the purposes of this bill. However, because of the inadequate manner in which the Food and Drug Administration is presently administering the food and drug functions entrusted to it by the Congress, I cannot in good conscience support the placement of other consumer product safety responsibilities within the agency. Instead, I believe FDA should be relieved of this administrative burden so that the agency's top management can concentrate on the more effective regulation of foods and drugs.

The Intergovernmental Relations Subcommittee, which I chair, has held hearing after hearing on the FDA's operations. These hearings, and the resulting reports issued by the Government Operations Committee, paint a very unsatisfactory picture of FDA's performance. Not only has the Agency's administrative efficiency been found wanting, but the subcommittee's investigations disclose that FDA officials have repeatedly disregarded the law and their own agency regulations.

To illustrate this point, last week I brought to the attention of the House an opinion by the Comptroller General holding that the FDA Commissioner has acted without legal authority and contrary to law in permitting a "phase out" period for existing stocks of DES premixes used in livestock feeding. The legality of the continued use of the cancer-promoting drug DES in livestock feeding had been thoroughly examined in our subcommittee hearings during the past year and a half. On July 31, 1972, FDA issued an order withdrawing approval of the new drug applications for DES liquid and dry premixes. That order required the immediate cessation of the manufacture of DES premixes, but permitted the continued shipment and use of existing stocks of the premixes until January 1, 1973. It was this latter permission by FDA which I had questioned and which the Comptroller General found to be illegal.

Similarly, FDA is knowingly permitting the continued interstate shipment and sale of the new drug "Sec," despite the fact that the agency has taken final action withdrawing approval of the new drug application for this product. The Intergovernmental Relations Subcommittee will hold a hearing on this matter next Monday.

In a similar vein, only last month, Judge William B. Bryant of the U.S. District Court for the District of Columbia—in American Public Health Association and National Council of Senior Citizens against Acting Secretary of HEW and Commissioner of FDA—also criticized FDA for contravening the law with respect to the efficacy requirements of the Federal Food, Drug, and Cosmetic Act. Judge Bryant said:

> When, as is the case here, the Congress has shown an awareness of a problem and has acted accordingly, it seems inappropriate for any agency to adopt procedures which extend the grace period far beyond that envisioned by the statute, and which effectively stay implementation of the Congressional mandate that drugs in the marketplace be both safe and effective.

I know that some will defend FDA's inadequacies and failures by asserting that the agency has been underfunded and understaffed in the past. However true this argument may be, it does not come to grips with the fact that decisionmaking which violates the law and the intent of Congress has little, if anything, to do with agency funding. Rather, it is principally a function of the quality of top management.

It is for these reasons that I support the establishment of a strong independent regulatory commission, as was recommended by the National Commission on Product Safety and, let me add, a commission which wrote a report which speaks with authority on this subject.

Mr. Chairman, I want to endorse particularly section 5 of the bill, which provides for an injury information clearinghouse to collect, investigate, analyze, and disseminate information relating to the causes and prevention of death, injury, and illness associated with consumer products. I do not have recent figures, but in a hearing before our subcommittee, it was estimated in 1968 that 20 million injuries annually were associated with consumer products.

During the 91st Congress, the Government Operations Subcommittee, which I chair, investigated the adequacy of arrangements by Federal departments and agencies for collecting and utilizing accident and injury data. On the basis of the subcommittee investigation, the committee reached the following conclusions:

1. Adequate information concerning household accidents and injuries is essential for the proper implementation of Federal programs intended to protect the public from hazardous products and substances and to help prevent avoidable accidents. Comprehensive information of this kind is not presently available, nor is there any coordinated system in existence within the Federal Government for collecting, analyzing and disseminating such information.

2. Some potentially useful information about household accidents and injuries is being collected by Federal agencies. However, much of it is not being used advantageously because it has not been sent to or obtained by agencies which should have it or because it is not in usable form.

3. In recent months, steps have been taken by the National Commission on Product Safety and other agencies to obtain additional information on household accidents and injuries. However, although it appears possible to obtain additional data with very little added cost or effort through minor modifications of existing programs, this has not been done.

4. In too many instances, appropriate corrective action has not been taken by the responsible Federal agency even after sufficient information was available. Fragmented and overlapping jurisdiction has undoubtedly aggravated this problem.

Enactment of this bill should help greatly in correcting deficiencies disclosed by the subcommittee investigation and in accomplishing its recommendation for the establishment of a coordinated system for collection, analysis, and dissemination of data relating to household accidents and injuries.

Mr. GOODLING. Mr. Chairman, as has already been stated by the gentleman from Ohio (Mr. DEVINE) this bill creates another new commission which simply adds to more bureaucracy which is already too vast. The time to stop adding new agencies is now. The time for the Congress to display some sense of fiscal responsibility is now. The time to stop piling bureaucracy upon bureaucracy is now. Each time we do this we add more to budget deficits that are continuing to burst at the seams. There are agencies within the present framework of government that could assume additional responsibilities in a shorter length of time at a lesser cost.

There is another serious potential danger in this type of legislation. I have not heard any Member mention this but this legislation could be one more step down the bureaucratic highway of destroying our free enterprise system. Are we going to stifle the expertise responsible for our inventive genius that brings countless new and improved products to our marketplace? Are we going to, by this legislation, discourage costly research so necessary to the development of any new product when the developer must first secure permission from a government agency to sell his product?

Some time ago, the Congress, in its wisdom or lack of it, set up the Environmental Protective Agency. It has brought out in subsequent hearings that a considerable number of chemical companies would no longer put millions of dollars into research so necessary to produce new and safe chemicals for farm and industrial use when they could not be assured the product could be marketed when compounded.

This appears to be just one more piece of emotional legislation that will probably benefit very few other than those who shall be a part of this bureaucracy.

Mr. PICKLE. Mr. Chairman, I rise in support of the Consumer Product Safety Act.

I realize that some people may feel that this bill would only be a hindrance to the give-and-take of the marketplace. I know that many feel that this bill will only create another agency, which is effective only in meddling.

But, Mr. Chairman, the Members who have worked so diligently on this measure have faced these questions. They have weighed the pros and cons; there has been give and take. The result is a bill that I think meets general accord with Members on both sides of the aisle.

I believe that we can all support this bill in an atmosphere of harmony, resulting from solid accomplishment.

H.R. 15003, Mr. Chairman, is in the best interests of the consumer while not overly burdensome for industry. Thus, I urge Members to vote for the Consumer Product Safety Act.

Mr. CRANE. Mr. Chairman, the bill before us, calling for the creation of a Consumer Product Safety Commission, is an intrinsic part of the growing attack upon private business, and the effort to place business under the control of a huge new Government bureaucracy.

In the name of "protecting the public" we have already seen many interventions by government agencies, a number of which have served only to make it more difficult to do business, thereby harming the Nation's economy and hurting the very people in whose name the action has been taken.

The Federal Trade Commission, acting on the basis of the same need to "protect the public" which motivates the supporters of a Consumer Product Safety Commission, has broadened its power in recent days in an unprecedented manner.

One of the many companies which have felt its wrath has been the Du Pont Co., makers of Zerex antifreeze. I cite this example as only one of many which are available.

The Federal Trade Commission charged that Zerex was falsely advertised in a television commercial, charges which have since been proven to be untrue. The company, nevertheless, lost sales in 1971 and public confidence because of unfavorable publicity.

What the FTC did was to call a press conference in November 1970 and make a "proposed complaint" against Du Pont, alleging, without proof, that the television commercial was misleading, that the antifreeze actually damaged automotive cooling systems, and that it had been inadequately tested. The Federal Agency then publicly threatened to ban the product.

The commercial in question showed a man stabbing a can of Zerex and streams of antifreeze gushing out and then sealing up. After the FTC charged that this demonstration was phony, newspapers across the country carried stories of the Commission's condemnation of Zerex.

Officials at Du Pont were not even informed of the FTC's action before the Washington press conference. Equally important is the fact that the FTC turned out to be wrong. It dropped the charge of false advertising. It dropped the charge that the product could cause damage. The FTC, in fact, found nothing wrong with the product in any way.

The financial damage had, of course, already been done. Du Pont counted 160 newspaper stories after the initial FTC accusation and only 80, half as many, a year later when the Agency admitted it had been wrong. Twenty front-page stories appeared the first time. The FTC's error received no first page placements a year later.

Discussing the tactics being used by this Federal Agency, Prof. Yale Brozen of the Graduate School of Business of the University of Chicago, declared that—

> The FTC has come up with the technique of unilaterally deciding what is deceptive, conducting a trial by press release, and demanding that the advertiser run ads admitting the deception. The burden of proving innocence is left to the advertiser, if he can survive the trial by accusation and publicity—a complete turnabout from our judicial system in which an accused is regarded as innocent until proved guilty.

The FTC is now calling on advertisers, industry by industry, to file with it documentary proof of all claims. Perhaps, states Professor Brozen:

> The FTC should be forced to substantiate its claims before issuing press releases which greatly mislead consumers.

In the long run, notes Professor Brozen, to advertise at all may become a sin:

The FTC is leveling a barrage of unsubstantiated claims against advertising which, if it prevails, may well cause a withering of advertising.

There are many other examples of the increasing harassment of private business and industry by Government. The Occupational Safety and Health Act invests authority in the Secretary of Labor for the first time to set job safety standards for the bulk of the Nation's 80 million working men and women.

Among other things, the Secretary is given authority to enforce the safety standards he may issue, and under his broad delegation of power can enter any "factory, plant, establishment, construction site, mine or other area or workplace or environment" to inspect it; close down any operation he finds dangerous; move to cancel Government contracts; and ask courts to impose fines and/or jail sentences for violators of his standards.

One wonders what ever happened to the fourth amendment guarantees against unwarranted search. One wonders what ever happened to fifth amendment guarantees of the security of private property. Our previous system based on State-determined standards, education, and cooperation, produced safety statistics which were the best in the world. This, however, has been abandoned in the interest of a nationalized, bureaucratically run system of harassment of private business.

And now, after the increasing intervention of Government agencies into the economic life of the Nation, making it ever more difficult for American business and industry to compete with those from abroad who are free of such regulation and control, we are told that we need still another Government agency—a Consumer Protection Commission—to regulate business and industry still more, and make it still more difficult to maintain maximum employment, and to compete in world markets.

If the Members of this body seek further to regulate and control business, no new commissions are necessary to implement such a policy. The Secretary of Labor, the Federal Trade Commission, and other governmental bodies have already assumed the powers being called for in this new commission. The Food and Drug Administration is already doing most of the things being urged upon this proposed new body.

What should be remembered, however, is that increasing Government power and control, far from serving the interests of the people, may do serious harm to such interests.

Woodrow Wilson, who was a keen student of history, stated:

The history of liberty is a history of limitations of governmental power, not the increase of it. When we resist, therefore, the concentration of power, we are resisting the powers of death, because concentration of power is what always precedes the destruction of human liberties.

Today we are witnessing the most unprecedented concentration of such governmental power in our national experience. The bill before us would simply expand such power.

The proposed expansion, we are told, is for a "good purpose"—the safety of consumer products. Freedom, however, is always taken from men for "good purposes." No better warning against expansions of Government power such as is urged in the present legislation has been given than that of Supreme Court Justice Louis Brandeis. He stated:

Experience should teach us to be most on guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greatest dangers to liberty lurk in insidious encroachments of men of zeal. . . .

Our country has been made the most prosperous in the history of the world under a free economy. If we shackle that economy, if we control it and regulate it, we will also impoverish it. The proposed legislation is part of a continuing trend of such regulation and control. As such, it leads in a direction which most Americans, if they understood it properly, would not want to go. On this basis, it must be opposed.

Mr. PODELL. Mr. Chairman, despite the growth of a large consumer movement, not nearly enough effective consumer protection legislation has been passed by Congress. At last, we now have two major bills—H.R. 15003 before the House today and H.R. 4809 in committee—which will create a strong, Federal role in the protection of consumers.

The first bill, H.R. 15003, deals with protection against unsafe products. The bill is based on one simple principle. The buyer has a right to expect that the use of consumer products will not prove injurious or harmful in any way and that the products he buys are safe. He does not have that assurance now.

As early as 1962, President John F. Kennedy in his historic first special message to the Congress on protecting the consumer interest enumerated four consumer rights. What was the first such right? The right to safety—"To be protected against the marketing of goods that are hazardous to health or life."

And how much progress has been made in the area of product safety since then?

Let me quote from a recent statement by Arnold B. Elkind, former chairman of the National Commission on Product Safety. In speaking about the work of the Commission, he stated:

Our gut estimate was that the current laissez-faire approach to consumer products costs the American public about 20 percent of the overall toll that the public pays in injuries or deaths for the privileges of enjoying consumer products. This translates into 6,000 lives, 22,000 cripples, 4 million injuries, and $1.1 billion in treasure that could be saved each year by an effective system for making products safe to use . . .

Unfortunately it also means that 16 million injuries and 24,000 deaths may occur annually from using consumer products regardless of the care, skill, and best efforts of our society."

The need for legislative action in the field of consumer product safety is immediate and crucial. To quote once again from Mr. Elkind:

The need of intervention into this problem area by the federal government is generally acknowledged by all men of good will who have considered product safety and its implications to the consumer.

H.R. 15003 goes a long way to satisfying that need. The bill would create an independent Safety Agency. The bill contains important provisions for setting safety standards, for banning unsafe products, and for criminal as well as civil penalties for violations of the law. In addition, the bill transfers the present functions of protecting the public from flammable fabrics, excessive dangerous radiations, dangerous toys, and certain other hazards to the new Safety Agency.

H.R. 15003 should be passed today. But H.R. 15003 deals with only part of the problem.

Consumers also have a right to be protected from false and misleading advertising and product warrantees. The Federal Government, through its Federal Trade Commission, has a duty to help protect consumers in the marketplace. H.R. 4809 gives the FTC the necessary powers to protect the consumer.

All other Federal regulatory agencies already have such powers in their own field. The FAA has such powers to protect airline passengers, the SEC has such powers to protect investors.

Only the FTC, the agency which protects the consumer in the marketplace, is forced to use unreasonably slow and unnecessary procedures.

It is my strong conviction that H.R. 4809 should be considered by the Congress during this session.

Mr. Chairman, the enactment of these twin bills, H.R. 15003 and H.R. 4809, would indicate loud and clear that this Congress is now on the side of the consumer. No special interests, no amount of lobbying should deter us from protecting consumers—because we, as well as our constituents, are the consumers who would suffer if we do nothing.

Mr. HALPERN. Mr. Chairman, I would like to express my enthusiastic support of H.R. 15003, the Consumer Product Safety Act.

Sadly, history shows us that national safety legislation in the United States largely comes about by a reaction to tragedy. Examples of this can be seen in the epidemic food poisoning at the turn of the century and more recently the shocking death toll due to accidents caused by defective automobiles. When faced with these situations, Congress recognized the necessity to provide the appropriate legislation.

Today, living in a space age technology as we do, we constantly come in contact with many new chemical, mechanical, and electronic gadgets. Many of these new marvels are to be found in the home. Strikingly, each year 30 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. It only takes commonsense to realize that the time has come for us in Congress to come to the aid of the American public.

We must face the fact that unsafe products are being marketed in disturbing numbers. Certainly available statistics show just how harmful they can be. Consumers Union, the independent, nonprofit organization which evaluates

products for consumers, prepared a special report at the request of the Senate Commerce Committee several years ago, analyzing the results of their admittedly limited product testing over the past 10 years. During that period their tests and analyses had uncovered 376 products deemed so hazardous as to be unacceptable in the home.

Within the last 6 years, the Congress has exhibited an increasing concern with the safety of the products which consumers encounter in their daily lives. This concern has manifested in the passage of a series of acts designed to deal with specific hazards and categories of products for which a substantial regulatory need had been established.

These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Act amendments, the Radiation Control for Health and Safety Act, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970. While each of these acts is meritorious in its own right and deserving of enactment, this legislative program has resulted in a patchwork pattern of laws which, in combination, extend to only a small portion of the multitude of consumer products sold in the marketplace.

Mr. Chairman, H.R. 15003 would go a long way toward solving the problem of unsafe consumer products. It would create an independent regulatory commission with the authority to take action across the board on consumer products to reduce or prevent product-related injuries. It would invest authority in an independent regulatory commission to: First, collect and disseminate information on consumer product-related injuries; second, establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or where such standards are not feasible to ban the product from the marketplace; third, obtain equitable relief in the courts to protect the public from products which pose imminent hazards to health and safety; and, fourth, administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety-related defects.

It is considered self-evident that the public is entitled to purchase products without subjecting themselves to unreasonable risk of injury or death. At the present time, consumers are not able to confidently rely on the safety of products which are distributed for their use or enjoyment.

I believe, Mr. Chairman, that H.R. 15003 will remedy this situation and I earnestly hope that my esteemed colleagues will join me in support of this urgently needed piece of legislation.

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope that this Consumer Product Safety Act, H.R. 15003, will be overwhelmingly adopted by the House.

In our legislative consideration of this important measure, let us primarily remember that the American public is unequivocably entitled to purchase products without the fear of subjecting themselves to unreasonable risk or injury. Second, Mr. Chairman, let us realize, that unfortunately at the present time, consumers cannot confidently rely on the safety of a tremendous number of products which are distributed for their use or enjoyment. Therefore, I believe the Congress of the United States, must and should legislatively speak out, on behalf of the consumer, through speedy enactment of the Consumer Product Safety Act.

The legislative measure we are considering today is designed to create an independent regulatory commission with comprehensive authority to initiate action to prevent or reduce product-related injuries to consumers. In substance, this legislative measure vests, within an independent regulatory commission, authority to, among other things, collect and disseminate information on consumer product related injuries, establish mandatory safety standards to prevent or substantially reduce unreasonable product hazards, to ban the hazardous product from the marketplace, obtain equitable relief in the courts to protect the public from products which pose imminent hazard to health and safety, and, administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety defects.

Of course, Mr. Chairman, in supporting this legislation, there is no intent whatsoever to inflict extreme and unnecessary hardships on our reputable business community. I think we all recognize and agree that a legitimate business which operates honestly and manufactures and markets safe and dependable goods, stands only to benefit from this legislation creating an independent product safety agency.

However, in spite of congressional concern and our initial legislative response to consumer problems, the evidence clearly reveals that for too long there has been an absence of strong and substantive Federal regulation to adequately protect the American consumer from hazardous consumer products.

Therefore, in simple fairness and equity, let us now act meaningfully to place the consumer on a more equal footing with the seller by the establishment of this regulatory Commission which will serve to effectively reduce and prevent product related injuries to consumers, which will help legitimate business fight the threat of unprincipled and unscrupulous producers, which will establish effective enforcement proceedings regarding consumer product safety and which will serve, in the overall national interest, to restore faith and confidence in the free-enterprise system.

Mr. RODINO. Mr. Chairman, I rise today to express my strong support for the bill before us to establish a new, independent regulatory commission to control consumer products to reduce or prevent product-related injuries.

In 1967 the Congress created the National Commission on Product Safety to conduct a comprehensive study of the scope and adequacy of measures and Federal controls to protect consumers against risks that might be caused by household products.

After a 2-year study, the Commission reported that there is a need for a strong and independent Government agency to protect the public. It concluded that although there are a number of Federal programs to supervise consumer products, these are scattered throughout a number of agencies and departments. In addition, the Commission found that State and local laws are a "hodgepodge of tragedy-inspired responses to challenges" and that self-interest and competitive forces are not sufficient to influence manufacturers to produce safe products.

Obviously, the approach recommended by the Commission and incorporated in the bill before the House today is the best answer to this acute problem. It would establish an independent neutral agency with strong and effective powers. The proposed Commission would be authorized to: First, collect and distribute information on consumer product-related injuries; second, establish mandatory safety standards or even to ban hazardous products from the marketplace; third, obtain relief through court action to protect the public or through the imposition of criminal and civil penalties; and fourth, order the notification and remedy of products that fail to comply with safety rules.

In addition, private suits for damages are allowed to be brought in Federal courts and consumer suits are permitted to compel compliance with safety rules and certain Commission orders.

Mr. Chairman, the National Center for Health Statistics has estimated that each year 20 million Americans are injured in and around the home, and of this 110,000 injuries result in permanent disability and 30,000 in death. It is also estimated that the annual dollar cost to the economy of product-related injuries is over $5 billion. Particularly tragic is the fact that home accidents reap a death toll among children under 15 which is higher than that of cancer and heart disease combined.

The new regulatory agency would have vast authority to regulate all types of consumer products, ranging from color television sets, glass bottles, toys, and infant furniture to household chemicals and such products as rotary lawnmowers.

In my judgment, with enactment of H.R. 15003 we will establish an effective program whereby both the consumer and industry can fairly and directly participate in developing and implementing proper safety standards to protect the public.

Mr. ANNUNZIO. Mr. Chairman, I am grateful for this opportunity to express my strong support for H.R. 15003, the Consumer Product Safety Act.

The purpose of an economy is to produce goods and services, large in quantity, high in quality, reasonable in price for maximum satisfaction in consumer use.

This very apt definition was given by Arch W. Troelstrup, well-known specialist in consumer economics.

But it is only recently that the con-

sumer "has come into his own" and that proper emphasis is placed on the pivotal role of the consumer in the modern economy. To reinforce our recognition of the importance of the consumer, we in Congress must assume a major role in protecting the consumers from unreasonable risks of death, injury, or serious or frequent illness associated with the use or exposure to consumer products.

There are many tragic examples of how dangerous many of our commonplace items can be. For example, every year 125,000 persons are injured by faulty heating devices; 100,000 are hurt and maimed by faulty power mowers or washing machines; 100,000, consisting mostly of children, have their limbs crushed by automatic clothes wringers; 40,000 people are gashed when they fall through a glass door; and another 30,000 are shocked and burned by defective wall sockets and extension cords. These are but a few examples of the possible harm any of us can encounter at any time.

Because this matter of safety in even our most common and familiar products becomes each year more complex, it must be taken seriously by every buyer of appliances and other consumer goods. Safety is a major factor in the value of many things we buy—often unexpected things. We take so much for granted, because not enough information or education for everyday safety has yet gotten through to us as consumers.

In 1967, Congress created the National Commission on Product Safety. The Commission transmitted its final report in July 1970 which confirmed both the absence of and the need for a strong, vigorous Federal presence to protect the public from hazardous consumer products.

Rather than propose individual legislation designed to deal with the product hazards which it had identified, the Commission decided that the Federal Government should abandon its traditional case by case approach to product safety and consolidate in a single agency authority sufficient to regulate the full spectrum of products which are sold to or used by consumers. To this end, the Commission recommended the creation of a new independent regulatory commission with comprehensive powers to minimize or eliminate unreasonably hazardous products.

H.R. 15003 represents these views of the Product Safety Commission and would create a new, independent regulatory Commission with comprehensive authority to take action across the full range of consumer products to reduce or prevent product-related injuries. The powers and procedural requirements contained in H.R. 15003, for the most part, draw and improve upon concepts and practices which the Congress has previously employed in other safety laws.

As a member of the House Banking and Currency Committee, I have fought long and hard for many consumer bills such as the Consumer Credit Protection Act and the Fair Credit Reporting Act. As a member of the committee, I was successful in adding my consumer protection amendment to the Economic Stabilization Act. My amendment is now part of the public law and permits consumers to protect themselves against overpricing during Phase II of Government price controls by allowing those who have been overcharged to sue for three times the amount of the overcharge.

As a Member of the House during the past 8 years, I have supported such landmark consumer protection legislation as the National Commission on Product Safety Act; the Traffic Safety Act, which sets performance standards for cars and tires; the Child Protection and Toy Safety Act; the Safe Packaging Act; and the Truth-in-Packaging Act.

Mr. Chairman, I hope my distinguished colleagues will join me in giving their full-hearted support to this, the latest in a series of necessary consumer legislation. I urgently support prompt and affirmative action on H.R. 15003.

Mr. PRICE of Illinois. Mr. Chairman, the Consumer Product Safety Act, H.R. 15003, is one of the most important pieces of legislation the House will consider during this session. The basic purpose of this bill is to have the Federal Government assume a major role in protecting consumers from unreasonable risks associated with the use of exposure to consumer products.

To accomplish this objective this bill creates an independent regulatory Commission, the Product Safety Commission, which brings together under one roof responsibility for regulating household consumer products as to safety. The Commission is authorized to study the causes and prevention of product-related injuries, establish mandatory safety standards for consumer products to reduce potential hazards and, if necessary, ban hazardous products from the marketplace and provide judicial and administrative relief against harmful products.

That this legislation is needed can be understood by the following data. The National Center for Health Statistics estimates that each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. One estimate has placed the annual dollar cost to the economy of product-related injuries at over $5 billion.

Moreover, home accidents cause a death toll among children under age 15 which is higher than that of cancer and heart disease combined. Yet the Federal Government is virtually powerless to curb hazards in a majority of consumer products. Also, there is no present central facility for collecting and evaluating injury data to measure the true scope of product-related injuries or to determine with confidence what portion of the annual toll of 30,000 deaths or 20 million injuries at home are actually caused by unsafe products.

This legislation is a culmination of congressional action over the last 6 years dealing with consumer safety. This action includes the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Act Amendments of 1967, the Radiation Control for Health and Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969 and the Poison Prevention Packaging Act of 1970.

Each of these measures represents an important contribution to consumer safety. However, the resulting patchwork pattern of laws extends to only a small portion of the multitude of products. Moreover, the technological revolution and ever-increasing public demand for consumer products has produced thousands of new products whose impact are less understood and whose use may pose potential harm. Therefore, what is needed rather than the traditional case by case approach is a consolidated effort to promote consumer safety.

In closing, Mr. Chairman, I strongly support this bill and urge my colleagues to join in voting for it.

Mr. HILLIS. Mr. Chairman, I would like to add a word of support for the consumer product safety bill being considered before this body today. I am but one among many Members of the House who have promised their constituents to do a better job of looking after the interests of the consumer—the forgotten American in the past decade. The consumer has been mistreated and cheated far too often in the past. He has not had a voice to speak up for him and usually has not known how to complain if he discovered a faulty product or shoddy business practice. Certainly, a law suit is a possibility, but most consumers have not had either the financial resources nor the desire to undergo a long, unpleasant court battle on behalf of the consuming public "for the principle" of correcting an unjust situation.

Last year, the House, acting on a mandate from the public, finally enacted a Consumer Protection Act, which sets up an independent agency to represent the interests of consumers in proceedings before Federal agencies and courts, encourages research on consumer products, and disseminate consumer information, as well as establish an Office of Consumer Affairs in the Executive Office. That was a first step beyond what the Food and Drug Administration had offered previously.

But there are many in Congress who have felt we need something more—something that really gets to the heart of the consumer issue and authorizes bold action for effective remedies. We feel the consumer product safety bill is what we have been looking for. It hits at the most crucial issue in consumer affairs—that of safety. Getting a lemon of a sewing machine is a nuisance, or getting a toy for your child which breaks in its first hours of use is annoying—and consumers deserve protection and recourse against such instances.

But a sewing machine with unsafe wiring or a toy which could shatter during play into an object that could poke out your child's eye is far more serious. Often the damage cannot be undone. Here, the consumer generally has little knowledge which qualifies him to determine the future safety quotient of a product. I think the time has come for the consumer to know he can purchase any product without having to worry about

the safety factor. That problem simply should not exist in the second half of the 20th century.

Therefore, I am glad to see this bill reported to the House and I am encouraged by its general acceptance here. This is a strong, effective bill, but not so unmanageable or so demanding that it becomes just another bureaucratic irritant. In fact, I am pleased to note that labor and business alike feel this bill is a reasonable approach to the problem. I have received several letters from businessmen in Indiana's Fifth District who recommend its passage as a generally effective means of assuring consumer safety, yet one which will not unreasonably burden businessmen whose products will be subject to inspection by this proposed Product Safety Commission.

I hope my colleagues on the House floor today will agree with those Fifth District constituents and vote to pass the Consumer Product Safety Act. Let us keep our promise to our consumer constituents and enact this piece of tough, but realistic, legislation.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Just in order to recapitulate what has taken place, I should like to say that in 1967 Congress authorized a commission to make a study throughout the United States on product safety and make a recommendation to the Congress which they have done in the final report of the National Commission on Product Safety. Those men are eminently qualified men. Let me name them for you: Arnold B. Elkind, chairman, attorney, New York; Emory J. Crofoot, attorney, Portland, Oreg.; Henry Aaron Hill, president, Riverside Research Laboratory, Haverhill, Mass.; Sidney Margolius, syndicated columnist, New York City; Michael Pertschuk, Chief Counsel, Senate Commerce Committee, Washington, D.C.; Hugh L. Ray, director, merchandise development and testing laboratory, Sears, Roebuck & Co., Chicago; Dana Young, senior vice president, Southwest Research Institute, San Antonio, Tex.

These gentlemen after 2 years came back with this report. I think most of their recommendations are carried in the bill which is before the House today. They definitely recommend this should be a separate agency.

I would like at this time to pay tribute to all the members of the subcommittee, including the chairman, the gentleman from California (Mr. Moss), and the gentleman from North Carolina (Mr. BROYHILL), and the gentleman from Georgia (Mr. STUCKEY), and the gentleman from Nebraska (Mr. MCCOLLISTER), and the gentleman from Texas (Mr. ECKHARDT), and the gentleman from Pennsylvania (Mr. WARE), and the gentleman from Ohio (Mr. CARNEY).

I might say they have had many jobs and many of them onerous jobs which have been hard to compromise and work out. They have done an exceptional job for America on many of the bills they have brought to this floor.

I want to pay a special tribute to the Members on the other side for their cooperation, and for the hard work of all the men who have worked together, as well as the chairman, the gentleman from California (Mr. Moss), in working out a compromise on bills that seldom met with public approval and on which it is difficult to get a consensus; but they have been able to work out compromises. The chairman has been able to work out compromises on many of the bills which have become the law of the land.

I hope this bill becomes the law of the land because it has been long delayed. Certainly it ought to be passed as the subcommittee recommended. It has been studied as long as any other subject which has been before the committee. They came forth with what I think are good recommendations. The subject was completely gone over by the full committee. It was reviewed and some changes were made, but the full committee thought it was a good bill, and on a voice vote I heard no nays on the bill. The bill was reported out unanimously by the subcommittee to the full committee.

There are those who talk about money and the creation of agencies. Let me say this. In the Commission report they stated there are 20 million accidents in America each year, 110,000 are permanently injured, and 30,000 die as a result of the accidents. We do not measure lives in terms of money. Certainly it is the duty of this Congress to protect as much as we can the welfare of the people of this Nation, and I think this bill does just that. There are many needless accidents that happen from appliances that should not happen. If we read the report we will see that many of these can be prevented, and that is the reason for the creation of the new agency which we hope and pray will carry out the mandates of this Congress to protect the people of this country.

With this, I say this bill ought to be passed overwhelmingly. I recommend it to the Congress as a very important bill.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 15003, the Consumer Product Safety Act as amended by the Committee on Interstate and Foreign Commerce.

In recent years we have witnessed a rash of legislation reflecting the increasing concern of Congress for the safety of the consumer in the use, consumption, or enjoyment of products in and around the home. These acts were designed to deal with specific hazards and categories of products for which a substantial regulatory need had been established. These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Flammable Fabrics Act Amendments of 1967, the Gas Pipeline Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970.

As commendable as these efforts have been, they have resulted in a piecemeal approach to consumer product safety. Federal authority to curb hazards has been virtually nonexistent in a majority of consumer products—and that which does exist is scattered among many agencies. Moreover, jurisdiction over a single category of products may be shared by as many as four different departments or agencies. Lastly, according to the National Commission on Product Safety:

> Federal product safety regulation is burdened by unnecessary procedural obstacles, circumscribed investigative powers, inadequate and ill-fitting sanctions, bureaucratic lassitude, timid administration, bargain-basement budgets, distorted priorities, and misdirected technical resources.

The need for an omnibus consumer product safety act becomes particularly compelling when one considers the physical and social cost incurred by the American public. According to the National Center for Health Statistics, each year 30,000 persons are killed, 110,000 permanently disabled, 585,000 hospitalized, and more than 20 million are injured in and around the home. Home accidents reap a death toll among children under the age of 15 which is higher than that of cancer and heart disease combined. The social costs of injuries, including actual billions of dollars unrealized as income taxes as a result of preventable deaths and injuries are: $446 million in public expenditures representing 1.7 percent of the current expenditures for health care. Finally, one estimate has put the annual dollar cost to the economy at more than $5 billion.

The Consumer Product Safety Act will go far in policing those areas now left unprotected, as well as complementing existing programs addressed to consumer product safety. This legislation will establish a Consumer Product Safety Commission with the authority to move decisively against any unsafe product in the marketplace. It also allows the consumer to petition the Commission to investigate the safety of any product. The hodgepodge of consumer safety programs are broadened and combined in an independent agency which is granted clear responsibility for insuring the safety and reliability of products in the marketplace. The Commission will develop uniform safety standards for consumer products and minimize conflicting State and local regulations, as well as promote research and investigation into the causes and prevention of product-related accidents. Moreover, the Commission is given a full panoply of powers, including civil and criminal sanctions, to enforce its findings.

I would like to emphasize the need for the functional independence of this agency. In view of the overwhelming public mandate for legislation of the kind before us today, I believe it is necessary to give proper status to the Consumer Product Safety Commission. And the only way to fulfill the wishes of the public in this matter is to assure its bipartisanship, accountability, and visibility.

In short, it must be an agency which is unaffected by the political orientation of the administration—be it Republican or Democratic, an agency whose budget will not be buried in the budget or a larger department of the executive branch. In this way, we can insure that the commitment to product safety will not be adulterated by competing considerations, or competing requests for limited funds. Most importantly, it must be an agency open to public scrutiny. This

bill, as amended by the Committee on Interstate and Foreign Commerce, fulfills the justifiable expectations of the public for a regulatory agency formed for its protection.

It is unfortunate—yet, nonetheless true—that self-interest and competitive forces in the marketplace are insufficient to bring about the production of safe products. It is, therefore, the proper role of the Federal Government to insure the safety and efficiency of products in interstate commerce. This can be accomplished most effectively by the passage of the omnibus legislation before us today. To do otherwise would be to cheat the American consumer of the protection he deserves.

Mr. KEATING. Mr. Chairman, I support H.R. 15003, the Consumer Product Safety Act. The need for product safety regulations has been established through the recognition of 20 million injuries sustained annually by Americans in their homes. Although the exact figure is unknown, a large number of these injuries are related to consumer products. The annual dollar cost to the economy of product-related injuries is estimated at over $5 billion.

Existing regulations in this field are dispersed and fragmented with resulting ineffectiveness. Today the authority for the Flammable Fabrics Act is divided among the Department of Health, Education, and Welfare, the Department of Commerce, and the Federal Trade Commission; and the Poison Prevention Packaging Act between HEW and the Environmental Protection Agency.

If we are to correct the inadequacies and failures of the past, consolidation of present authorities in the field is of great importance. The substance of this bill permits an accommodation between the legislative recommendation of the National Committee on Product Safety for an independent consumer product safety agency, with the authority to set standards for all products, and the administration proposal to vest this authority in the Department of Health, Education, and Welfare rather than create a new agency.

Through H.R. 15003, the Food and Drug Administration would retain its authority to oversee food, drugs, and cosmetics, yet an independent agency would be created to regulate standards for other consumers products. Authority for the labeling of packaged drugs would be shared by the two agencies.

Through such consolidation of authorities, greater protection for the consumer will be provided. This is the intent and purpose of the legislation, and I wholeheartedly support it.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Consumer Product Safety Act".

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FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) an unacceptable number of consumer products which contain unreasonable hazards are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an inability of users to anticipate hazards and to safeguard themselves adequately;

(3) the public should be protected against unreasonable hazards associated with consumer products;

(4) control by State and local governments of unreasonable hazards associated with consumer products is inadequate and may be burdensome to manufacturers; and

(5) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this Act.

(b) The purposes of this Act are—

(1) to protect the public against unreasonable hazards associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

DEFINITIONS

SEC. 3. (a) For purposes of this Act:

(1) The term "consumer product" means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a household or residence, a school, in recreation, or otherwise; but such term does not include (A) any article which is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer; (B) tobacco and tobacco products, (C) motor vehicles or motor vehicle equipment (as defined by sections 102 (3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966), (D) economic poisons (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act), (E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article, (F) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), or (G) food. The term "food", as used in this paragraph, means all "food" as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in sections 4 (e) and (f) of the Poultry Products Inspection Act, meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(2) The term "consumer product safety rule" means a consumer product safety standard described in section 7(a), or a rule under this Act declaring a consumer product a banned hazardous product.

(3) The term "hazard" means a risk of death, personal injury, or serious or frequent illness.

(4) The term "manufacturer" means any person who manufactures or imports a consumer product.

(5) The term "distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

(6) The term "retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(8) The term "manufacture" means to manufacture, produce, or assemble.

(9) The term "Commission" means the Consumer Product Safety Commission, established by section 4.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(11) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(13) The terms "import" and "importation" include reimporting a consumer prod-

uct manufactured or processed, in whole or in part, in the United States.

(14) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) A common carrier, contract carrier, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CONSUMER PRODUCT SAFETY COMMISSION

SEC. 4. (a) An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated, shall act as Chairman until the expiration of his term of office as Commissioner. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b)(1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after the date of the enactment of this Act, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) Not more than three of the Commissioners shall be appointed from the same political party. No individual in the employ of, or holding any official relation to, any person, engaged in selling or manufacturing consumer products or owning stock or bonds of substantial value in a person so engaged or who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

(f)(1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(g)(1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. Individuals may be appointed under this paragraph without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(2) The Chairman, subject to subsection (f)(2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions. No full-time officer or employee of the Commission who was at any time during the 12 months preceding the termination of his employment with the Commission compensated at a rate in excess of the annual rate of basic pay in effect for grade GS–14 of the General Schedule, shall accept employment or compensation from any manufacturer subject to this Act, for a period of 12 months after terminating employment with the Commission.

(h)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(59) Chairman, Consumer Product Safety Commission."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraph:

"(96) Members, Consumer Product Safety Commission (4)."

PRODUCT SAFETY INFORMATION AND RESEARCH

SEC. 5. (a) The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate information relating to the causes and prevention of death, injury, and illness associated with consumer products; and

(2) conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary.

(b) The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods.

(c) In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Whenever the Federal contribution for any information, research, or development activity authorized by this Act is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 6. (a)(1) Nothing contained in this Act shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress.

(b)(1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith, the Commission shall provide such information to each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in reward to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant hazard associated with such product.

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 7. (a) The Commission may by rule, in accordance with this section and section 9, promulgate consumer product safety standards. A consumer product safety standard

shall consist of one or more of any of the following types of requirements:

(1) Requirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product. The requirements of such a standard (other than requirements relating to labeling, warnings, or instructions) shall, whenever feasible, be expressed in terms of performance requirements.

(b) A proceeding for the development of a consumer product safety standard under this Act shall be commenced by the publication in the Federal Register of a notice which shall—

(1) identify the product and the nature of the hazard associated with the product;

(2) state the Commission's determination that a consumer product safety standard is necessary to prevent or reduce the hazard;

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceeding; and

(4) include an invitation for any person, including any State or Federal agency (other than the Commission), within 30 days after the date of publication of the notice (A) to submit to the Commission an existing standard as the proposed consumer product safety standard or (B) to offer to develop the proposed consumer product safety standard.

An invitation under paragraph (4)(B) shall specify a period of time, during which the standard is to be developed, which shall be a period ending 150 days after the publication of the notice, unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.

(c) If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under this Act would prevent or reduce the unreasonable hazard associated with the product, then it may, in lieu of accepting an offer pursuant to subsection (d) of this section, publish such standard as a proposed consumer product safety rule.

(d)(1) Except as provided by subsection (c), the Commission shall accept one, and may accept more than one, offer to develop a proposed consumer product safety standard pursuant to the invitation prescribed by subsection (b)(4)(B), if it determines that the offeror is technically competent, is likely to develop an appropriate standard within the period specified in the invitation under subsection (b), and will comply with regulations of the Commission under paragraph (3). The Commission shall publish in the Federal Register the name and address of each person whose offer it accepts, and a summary of the terms of such offer as accepted.

(2) If an offer is accepted under this subsection, the Commission may agree to contribute to the offeror's cost in developing a proposed consumer product safety standard, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings.

(3) The Commission shall prescribe regulations governing the development of proposed consumer product safety standards by persons whose offers are accepted under paragraph (1). Such regulations shall include requirements—

(A) that standards recommended for promulgation be suitable for promulgation under this Act, be supported by test data or such other documents or materials as the Commission may reasonably require to be developed, and (where appropriate) contain suitable test methods for measurement of compliance with such standards;

(B) for notice and opportunity by interested persons (including representatives of consumers and consumer organizations) to participate in the development of such standards;

(C) for the maintenance of records, which shall be available to the public, to disclose the course of the development of standards recommended for promulgation, the comments and other information submitted by any person in connection with such development (including dissenting views and comments and information with respect to the need for such recommended standards), and such other matters as may be relevant to the evaluation of such recommended standards; and

(D) that the Commission and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records relevant to the development of such recommended standards or to the expenditure of any contribution of the Commission for the development of such standards.

(e)(1) If the Commission has published a notice of proceeding as provided by subsection (b) and has not, within 30 days after the date of publication of such notice, accepted an offer to develop a proposed consumer product safety standard, the Commission may develop a proposed consumer product safety rule and publish such proposed rule.

(2) If the Commission accepts an offer to develop a proposed consumer product safety standard, the Commission may not, during the development period (specified in paragraph (3)) for such standard—

(A) publish a proposed rule applicable to the same hazard associated with such product, or

(B) develop proposals for such standard or contract with third parties for such development, unless the Commission determines that no offeror whose offer was accepted is making satisfactory progress in the development of such standard.

(3) For purposes of paragraph (2), the development period for any standard is a period (A) beginning on the date on which the Commission first accepts an offer under subsection (d)(1) for the development of a proposed standard, and (B) ending on the earlier of—

(i) the end of the period specified in the notice of proceeding (except that the period specified in the notice may be extended if good cause is shown and the reasons for such extension are published in the Federal Register), or

(ii) the date on which it determines (in accordance with such procedures as it may by rule prescribe) that no offeror whose offer was accepted is able and willing to continue satisfactorily the development of the proposed standard which was the subject of the offer, or

(iii) the date on which an offeror whose offer was accepted submits such a recommended standard to the Commission.

(f) Not more than 210 days after its publication of a notice of proceeding pursuant to subsection (b) (which time may be extended by the Commission by a notice published in the Federal Register stating good cause therefor), the Commission shall publish in the Federal Register a notice withdrawing such notice of proceeding or publish a proposed rule which either proposes a product safety standard applicable to any consumer product subject to such notice, or proposes to declare any such subject product a banned hazardous consumer product.

BANNED HAZARDOUS PRODUCTS

SEC. 8. Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable hazard to the public; and

(2) no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product.

the Commission may propose and, in accordance with section 9, promulgate a rule declaring such product a banned hazardous product.

ADMINISTRATIVE PROCEDURE APPLICABLE TO PROMULGATION OF CONSUMER PRODUCT SAFETY RULES

SEC. 9. (a)(1) Within sixty days after the publication under section 7(c), (e)(1), or (f) or section 8 of a proposed consumer product safety rule respecting a hazard associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the hazard associated with such product if it makes the findings required under subsection (c), or

(B) withdraw by rule the applicable notice of proceeding if it determines that such rule is not (i) reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product, or (ii) in the public interest;

except that the Commission may extend such sixty-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules which have been proposed under section 7(c), (e)(1), or (f) or section 8 shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(b) A consumer product safety rule shall express in the rule itself the hazard which the standard is designed to prevent or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act.

(c)(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the hazard the rule is designed to prevent or reduce, and

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule; and

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need.

(2) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule)—

(A) that the rule (including its effective date) is reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product;

(B) that the promulgation of the rule is in the public interest; and

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety stand-

ard under this Act would adequately protect the public from the unreasonable hazard associated with such product.

(d) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. A consumer product safety standard under this Act shall be applicable only to consumer products manufactured after the date of promulgation of the standard.

(e) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections 7 and 8, and subsections (a) through (d) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (a) (2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product. Section 11 shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

PETITION BY INTERESTED PARTY FOR CONSUMER PRODUCT SAFETY RULE

SEC. 10. (a) Any interested person, including a consumer or consumer organization, may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule.

(b) Such petition shall be filed in the principal office of the Commission and shall set forth—

(1) facts which it is claimed establish that a consumer product safety rule or an amendment or revocation thereof is necessary; and

(2) a brief description of the substance of the consumer product safety rule or amendment thereof which it is claimed should be issued by the Commission.

(c) The Commission may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not such petition should be granted.

(d) If the Commission grants such petition, it shall promptly commence an appropriate proceeding to prescribe a consumer product safety rule, or take such other action as it deems appropriate. If the Commission denies such petition it shall publish in the Federal Register its reasons for such denial.

JUDICIAL REVIEW OF CONSUMER PRODUCT SAFETY RULES

SEC. 11. (a) Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by him for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code. For purposes of this section, the term "record" means such consumer product safety rule; any notice or proposal published pursuant to section 7, 8, or 9; the transcript required by section 9(a)(2) of any oral presentation; any written submission of interested parties; and any other information, which the Commission considers relevant to such rule.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. The consumer product safety rule shall not be affirmed unless the Commission's findings under section 9(c) are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

IMMINENT HAZARDS

SEC. 12. (a) The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b)(2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this Act. As used in this section, and hereinafter in this Act, the term "imminently hazardous consumer product" means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b)(1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a)(2)) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a)(1), the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of such action or as soon thereafter as may be practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d)(1) Prior to commencing an action under subsection (a), the Commission may consult the Product Safety Advisory Council (established under section 28) with respect to its determination to commence such action, and request the Council's recommendations as to the type of temporary or permanent relief which may be necessary to protect the public.

(2) The Council shall submit its recommendations to the Commission within one week of such request.

(3) Subject to paragraph (2), the Council may conduct such hearing or offer such opportunity for the presentation of views as it may consider necessary or appropriate.

(e)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(f) Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

NEW PRODUCTS

SEC. 13. (a) The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

(b) For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products and (2) as to which there exists a lack of information adequate to determine the safety of such product in use by consumers.

PRODUCT CERTIFICATION AND LABELING

SEC. 14. (a)(1) Every manufacturer of a product which is subject to a consumer product safety standard under this Act and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to

whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture.

(2) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may by rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required by paragraph (1) of this subsection, and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1) to issue a certificate with respect to such product.

(b) The Commission may by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests or testing programs.

(c) The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule)—

(1) The date and place of manufacture of any consumer product.

(2) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which would permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.

(3) In the case of a consumer product subject to a consumer product safety rule, a certification that product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permanently marked on or affixed to any such consumer product.

NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUND

SEC. 15. (a) For purposes of this section, the term "substantial product hazard" means—

(1) a failure to comply with an applicable consumer product safety rule which creates a substantial hazard to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial hazard to the public.

(b) Every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule; or

(2) contains a defect which could create a substantial product hazard described in subsection (a)(2),

shall immediately inform the Commission of such failure to comply or of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(c) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for the oral presentation of views as well as for written presentations) that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(1) to give public notice of the defect or failure to comply;

(2) to mail notice to each person who is a manufacturer, distributor, or retailer of such product; or

(3) to mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(d) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with section 554 of title 5, United States Code) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects—

(1) to bring such product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product;

(2) to replace such product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect; or

(3) to refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the preceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection.

(e)(1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

INSPECTION AND RECORDKEEPING

SEC. 16. (a) For purposes of implementing this Act, or rules or orders prescribed under this Act, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or (B) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this Act and rules under this Act.

IMPORTED PRODUCTS

SEC. 17. (a) Any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) shall be refused admission into such customs territory if such product—

(1) fails to comply with an applicable consumer product safety rule;

(2) is not accompanied by a certificate required by section 14, or is not labeled in accordance with regulations under section 14(c);

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 12;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 15(a)(2)); or

(5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 12 with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 of the United States Code with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission unless subsection (c) of this section applies and is complied with.

(c) If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody un-

der bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand redelivery of the product into customs custody, and to seize the product in accordance with section 22(b) if it is not so redelivered.

(e) Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product.

(f) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(g) The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.

EXPORTS

SEC. 18. This Act shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless such consumer product is in fact distributed in commerce for use in the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

PROHIBITED ACTS

SEC. 19. (a) It shall be unlawful for any person to—

(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this Act;

(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Act or rule thereunder;

(4) fail to furnish information respecting a substantial product defect, as required by section 15(b);

(5) fail to comply with an order issued under section 15 (c) or (d) (relating to notification, and to repair, replacement, and refund);

(6) fail to furnish a certificate required by section 14 or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c) (relating to labeling).

(b) Paragraphs (1) and (2) of section (a) shall not apply to any person (1) who holds a certificate issued in accordance with section 14(a) to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

CIVIL PENALTIES

SEC. 20. (a)(1) Any person who knowingly violates section 19 of this Act shall be subject to a civil penalty not to exceed $2,000 for each such violation. Subject to paragraph (2), a violation of section 19(a)(1), (2), (4), (5), or (6) shall constitute a separate violation with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. A violation of section 19(a)(3) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 19(a)—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the product involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraph.

(b) Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

CRIMINAL PENALTIES

SEC. 21. (a) Any person who knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission shall be fined not more than $50,000 or be imprisoned not more than one year, or both.

(b) Whenever any corporation knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission, any individual director, officer, or agent of such corporation who knowingly and willfully authorized, ordered, or performed any of the acts or practices constituting in whole or in part such violation and who had knowledge of such notice from the Commission shall be subject to penalties under this section in addition to the corporation.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 22. (a) The United States district courts shall have jurisdiction to restrain any violation of section 19, or to restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule, or both. Such actions may be brought by the Attorney General, on request of the Commission, in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Any consumer product which fails to conform to an applicable consumer product safety rule when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving identical consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

SUITS FOR DAMAGES BY PERSONS INJURED

SEC. 23. (a)(1) If any person dies or sustains personal injury or illness by reason of the failure of a consumer product to comply with an applicable consumer product safety rule under this Act, then such person (or his survivors or legal representative) may sue any manufacturer, distributor, or retailer of such noncomplying product, and may recover any damages sustained as a result of such failure to comply.

(2) If any person dies or sustains personal injury or illness by reason of a failure to comply with an order under section 15(c) or section 15(d), then such person (or his survivors or legal representative) may sue any person who failed to comply with such order under section 15, and may recover any damages sustained as a result of such failure to comply.

(3) An action under this section may be brought in any United States district court in the district in which the defendant resides or is found or has an agent, without regard to the amount in controversy. In any action under this section, whenever a plaintiff shall prevail the court may award the plaintiff the costs of the suit, including a reasonable attorney's fee.

(b) In the case of an action brought for noncompliance with an applicable consumer product safety rule, no liability shall be imposed under this section upon any manufacturer, distributor, or retailer who establishes (1) that he did not have reason to know in the exercise of due care that such product did not comply with such consumer product safety rule, and (2) in the case of a manufacturer or a distributor or retailer who is a private labeler of such noncomplying product, that the product was designed so as to comply with all applicable consumer product safety rules and that due care was used in the manufacture of the product so as to assure that the product complied with such rule. In the case of an action for noncompliance with an order under section 15, no liability shall be imposed under this section upon any manufacturer,

distributor, or retailer who establishes that he took all steps as may be reasonable in the exercise of due care to comply with such order.

(c) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State statutory law.

PRIVATE ENFORCEMENT OF PRODUCT SAFETY RULES AND OF SECTION 15 ORDERS

SEC. 24. Any interested person may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section, such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing party.

EFFECT ON PRIVATE REMEDIES

SEC. 25. (a) Compliance with consumer product safety rules or other rules or orders under this Act shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c)(1) Subject to section 6(a)(2) but notwithstanding section 6(a)(1), (A) accident and investigation reports made under this Act by any officer, employee, or agent of the Commission shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and (B) any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations.

(2) Subject to sections 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), (A) any accident or investigation report made under this Act by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (B) all reports on research projects, demonstration projects, and other related activities shall be public information.

EFFECT OF STATE STANDARDS

SEC. 26. (a) Whenever a consumer product safety standard under this Act is in effect and applies to a hazard associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same hazard associated with such consumer product; unless such requirements are identical to the requirements of the Federal standard.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a consumer product for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

(c) Upon application of a State or political subdivision thereof, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose) a proposed safety standard or regulation described in such application, where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce.

ADDITIONAL FUNCTIONS OF COMMISSION

SEC. 27. (a) The Commission may, by one or more of its members or by such agents or agency as it may designate conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same manner. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Attorney General, in case of refusal to obey a subpena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) The Commission may by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of the Act, and to give such notification of such performance and technical data at that time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act.

(e) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(f) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(g) The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this Act.

(h) The Commission shall prepare and submit to the President and the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer product safety research activities:

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act:

(7) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission; and

(10) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act.

PRODUCT SAFETY ADVISORY COUNCIL

SEC. 28. (a) The Commission shall establish a Product Safety Advisory Council which it may consult before prescribing a consumer product safety rule or taking other action under this Act. The Council shall be appointed by the Commission and shall be composed of fifteen members, each of whom shall be qualified by training and experience in one or more of the fields applicable to the safety of products within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) five members shall be selected from governmental agencies including Federal, State, and local governments;

(2) five members shall be selected from consumer product industries including at least one representative of small business; and

(3) five members shall be selected from among consumer organizations, community organizations, and recognized consumer leaders.

(b) The Council shall meet at the call of the Commission, but not less often than four times during each calendar year.

(c) The Council may propose consumer product safety rules to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(d) Members of the Council who are officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in

the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

COOPERATION WITH STATES AND WITH OTHER FEDERAL AGENCIES

SEC. 29. (a) The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections.

(b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

TRANSFERS OF FUNCTIONS

SEC. 30. (a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. The functions of the Administrator of the Environmental Protection Agency and of the Secretary of Health, Education, and Welfare under the Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970, to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

(b) The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) A hazard which is associated with consumer products and which could be prevented or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated by the Commission only in accordance with the provisions of those Acts.

(d) (1) All personnel, property, records, obligations, and commitments, which are used primarily with respect to any function transferred under the provisions of subsection (a) and (b) of this section shall be transferred to the Commission. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section.

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any function of which are transferred by this section, and (B) where they are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(e) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office or officer of such agency or department.

LIMITATION ON JURISDICTION

SEC. 31. The Commission shall have no authority under this Act to regulate hazards associated with consumer products which could be prevented or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970; the Act of August 2, 1956 (70 Stat. 953); the Atomic Energy Act of 1954; or the Clean Air Act. The Commission shall have no authority under this Act to regulate any hazard associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355 (1) and (2) of the Public Health Service Act) if such hazard of such product may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. (a) There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act (other than the provisions of section 27(g) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30—

(1) $55,000,000 for the fiscal year ending June 30, 1973;

(2) $59,000,000 for the fiscal year ending June 30, 1974; and

(3) $64,000,000 for the fiscal year ending June 30, 1975.

(b) (1) There are authorized to be appropriated such sums as may be necessary for the planning and construction of research, development and testing facilities described in section 27(g); except that no appropriation shall be made for any such planning or construction involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval the Commission shall transmit to Congress a prospectus of the proposed facility including (but not limited to)—

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Commission, in construction costs, from the date of the transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

EFFECTIVE DATE

SEC. 33. This Act shall take effect on the sixtieth day following the date of its enactment, except—

(1) sections 4 and 32 shall take effect on the date of enactment of this Act, and

(2) section 30 shall take effect on the later of (A) 150 days after the date of enactment of this Act, or (B) the date on which at least three members of the Commission first take office.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

Mr. GROSS. Mr. Chairman, reserving the right to object, I should like to hear

the gentleman say, "open to amendment at any point."

Mr. STAGGERS. Mr. Chairman, I meant to add that. I do add that, "and open to amendment at any point."

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

There was no objection.

Mr. GROSS. 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. 374]

Abernethy	Evins, Tenn.	Minshall
Abourezk	Findley	Mitchell
Adams	Flynt	Murphy, N.Y.
Addabbo	Fraser	Patten
Anderson, Tenn	Fuqua	Pirnie
Annunzio	Galifianakis	Podell
Aspinall	Gallagher	Pucinski
Badillo	Garmatz	Reid
Baring	Goldwater	Rooney, N.Y.
Belcher	Gray	Rooney, Pa.
Betts	Griffiths	Rosenthal
Bevill	Hansen, Idaho	St Germain
Blanton	Hébert	Saylor
Boggs	Helstoski	Scheuer
Burton	Hillis	Schmitz
Byrnes, Wis.	Johnson, Pa.	Skubitz
Carey, N.Y.	Kastenmeier	Steiger, Ariz.
Celler	Keating	Stephens
Clark	Link	Stratton
Clay	McClory	Teague, Tex.
Conyers	McCormack	Terry
Curlin	McDade	Thompson, N.J.
Daniels, N.J.	McDonald, Mich.	Tiernan
Derwinski	McKinney	Vigorito
Dow	McMillan	Wilson, Charles H.
Dowdy	Macdonald, Mass.	Wydler
Dwyer	Michel	Zion
Edmondson	Mikva	
Edwards, Calif.		
Esch		

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, 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. 15003, and finding itself without a quorum, he had directed the roll to be called, when 345 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.

AMENDMENT OFFERED BY MR. STAGGERS

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

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: On page 79 of the bill, strike lines 16 through 18 and substitute the following:

"The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date."

Mr. STAGGERS. Mr. Chairman, I will just take 1 minute. I think, certainly, this amendment will be agreeable to the Whole Committee of the House. We are just trying to be fair with industry to be sure that they have time in which to amend their practices.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman yielding. Am I correct in understanding that this amendment to section 9(d) of the bill makes it clear that standards will be applicable only to consumer products manufactured after the effective date of the standard?

Mr. STAGGERS. Yes.

Mr. STEIGER of Wisconsin. I thank the gentleman.

Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERRED BY MR. DENNIS

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

The Clerk read as follows:

Amendment offered by Mr. DENNIS: Beginning on page 102, line 23, with the word "If", strike out all down to, but not including, line 11 on page 104, and substitute in lieu thereof the following: "Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety standard, regulation, or order issued by the Commisisoner may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, subject to the provisions of section 1331 of title 28, United States Code as to the amount in controversy, and shall recover damages sustained, and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court."

Mr. DENNIS. Mr. Chairman, I have some serious reservations about the basic merits of this bill which spring from my general disinclination to create a new Federal regulatory body to ride herd on American business and from the fact that I personally, at any rate, have not had any great number of complaints from consumers in my own district, but this amendment is not addressed to those general concerns.

This is a legal amendment which is addressed to the question of the proliferation of lawsuits in the Federal courts provided in this measure as it now stands. Section 23 of the bill, which commences on page 102 and runs over to page 104 of the bill, through line 10, provides that any person who suffers or claims to have suffered any injury as a result of the failure of any consumer product to meet the standards which have been laid down under the bill can bring a suit in the Federal court for damages, illness, sickness, anything, regardless of the jurisdictional amount, and recover his damages and a reasonable attorney's fee.

The American Bar Association and the Chief Justice of the United States are both seriously concerned with the Congress loading down the Federal courts unduly with new and additional business. The bill as it is drawn provides for a suit against the retailer, the distributor, the manufacturer, for even as little as $10 or $15 as far as that is concerned. I simply fear that if we pass the bill in that form we are going to have the Federal courts jammed with all types of litigation when they already have plenty to handle.

I have been handed a copy of a telegram which the president of the ABA has sent, I believe, to the Speaker and the chairman of the Rules Committee, as well as other Members. This telegram says:

While the American Bar Association has taken no position on the substance of H.R. 15003, the proposed Consumer Product Safety Act, we are deeply concerned with any legislation which provides for a substantial increase in the workload of the Federal courts. I am advised that the views of the Judicial Conference of the United States were not sought by the House Committee on Interstate and Foreign Commerce. We recommend that the potential impact on the courts be carefully analyzed before passage of legislation, and in the case of legislation which will substantially add to the burden of the courts, we must oppose it until this has been done.

Chief Justice Burger, in an address to the bar association last August, said:

. . . . But there is no escape from constantly enlarging the federal judicial establishment except to adopt new judicial methods and improve performance as we are trying to do, and to have Congress carefully scrutinize all legislation that will create more cases.

In recent years, Congress has required every executive agency to prepare an environmental impact statement whenever a new highway, a new bridge or other federally funded projects are planned. I suggest, with all deference, that every piece of legislation creating new cases be accompanied by a "court impact statement", prepared by the reporting committee and submitted to the Judiciary Committees of the Congress with an estimate of how many more judges and supporting personnel will be needed to handle the new cases.

That, of course, in this case has not been done.

So, the thrust of this amendment, very simply, is to strike out the present section and simply provide that any person who sustains an injury——

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

Mr. STAGGERS. Mr. Chairman, I ask that the gentleman have 2 additional minutes.

Mr. DENNIS. That any person who has sustained injury may bring suit in the Federal courts under the normal jurisdictional requirements of section 1331, which means the amount in controversy has got to be $10,000 or more. This amendment would hold it down to that, as a means of limiting this proliferating litigation to the more important cases involving the real need for Federal court remedy, relegating others to the State courts.

Mr. Chairman, I yield to the chairman of the committee.

Mr. STAGGERS. The gentleman asked if we had asked the opinion of the Federal courts on this. We did ask the Administrative Office of the U.S. Courts about whether they had made a study. They said no, they had not, and it was not feasible. For that reason, we could not put it into our legislation.

I should like to say this: It seems perfectly clear to me that if we are going to have a Federal law affecting everybody in the United States, they should be dealt with in the Federal courts. This is not mandatory and certainly goes to the other courts as well. How are you going to say a man can only go to Federal court if he has a $10,000 lawsuit? Is a finger worth $10,000? Is a toe worth $10,000? Is an eye worth $10,000? Who is going to be the judge of that? I think the court has to be the judge when they come in as to what kind of damage or injury they have.

Mr. DENNIS. I might say to the chairman that I am only saying that we should treat these damage suits as we treat every other kind of ordinary damage suit in Federal court without giving them preferential status.

Mr. STAGGERS. I think the gentleman is putting the Federal courts ahead of the individual injury. If we need the judges, if this is what we have to have in order to have justice, let us get more judges, but let us give justice in America to the poor people and to the ones who need it.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment. I should like to say that the first mistake of the gentleman in assuming that this would overload the Federal courts is the favorable result of reducing danger from products on the market. We presently have authority to go into State courts, and in cases of diversity of citizenship which are frequently available, in Federal courts when damages occur.

The main thrust of this bill is to prevent people from being hurt in the first place. Now, I submit that if this act is passed as written, the offsetting reduction of damages and injuries to people will be at least as great as the additional number of cases brought in Federal court.

Incidentally, the idea of the Federal courts being overloaded is terribly exaggerated. Under this act it would be necessary to show that a rule had been issued with respect to the particular product involved, or that an order had been granted which had been violated.

Rules and orders will be passed as the administrator gets to those matters.

I submit that one should not be permitted to avoid liability in violating a Federal rule merely because the person injured had a finger cut off which is not worth $10,000.

I do not believe we ought to put a price on this type of responsibility. I believe the manufacturer who makes a dangerous product should be subjected to liability as the result of his violation of Federal law without regard to the amount in controversy.

I am tired of hearing this argument that the rights of people, no matter how small they may be, must depend on whether or not we have established enough courts to defend those rights. It seems to me that is putting the horse behind the cart. It seems to me this is entirely wrong thinking in this area.

In the first place, under the present provisions of the law, a person showing that he has a remedy has to show there has been a rule enacted and it has been violated. That cuts down the number of cases.

The rule has to be made. Presumably reasonable public-minded manufacturers will comply with the rule. That will cut down the number of cases.

Why should not a person injured have a right to come in under Federal law regardless of whether the $10,000 is involved? I used to like what Senator Yarborough said, "Let us put the jam on the lower shelf." Why should not the judicial jam be put on the lower shelf. Why should relief only be available to large corporations and to persons with amounts involved of over $10,000? It seems to me the consumers are entitled to have those courts available to them when a manufacturer has violated a rule established under Federal law regardless of the amount in controversy.

I urge a vote of "no" on the amendment.

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

It is important at the outset to understand what the amendment does and what it does not do.

First, Mr. Chairman, it should be understood that a consumer is not denied a right of action simply because he may not have access to a Federal court. He may sue in a State court. He has had that right all along, and it is not denied to him under this amendment.

The pending bill waives the amount in controversy requirement of section 1331 of title 28. At the present time access to the Federal court is not granted in all cases; it is granted only if the amount in controversy for certain specific types of claims is $10,000 or more.

This proposed statute waives that requirement with respect to causes of action arising under the bill.

Why is it necessary that the action be filed in the Federal court? What policy considerations would cause us to impose this added burden on the Federal courts? Certainly the reason cannot be that the Federal court is the only possible forum for the fair resolution of controversies arising under the bill. No one here should impute to the State courts an inability to settle a controversy properly even though it involves an interpretation of Federal law. They do that now. We are heaping a further burden upon the Federal courts for no good cause or reason. We have heard from the Chief Justice and others that it is in the public interest not to further burden the Federal courts.

This amendment would insulate the Federal courts from causes of action that involve lesser sums and would cause the plaintiffs in those cases to seek their relief in the State court.

It is wholly a responsible amendment, Mr. Chairman, and I urge the Members to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

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

Mr. **MOSS.** Mr. Chairman, I demand **tellers.**

Tellers were refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. HENDERSON

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

The Clerk read as follows:

Amendment offered by Mr. HENDERSON: On page 65 of the reported bill, amend section 4—

(1) by striking out all of paragraph (1) of subsection (g), beginning with line 8 down through line 19;

(2) in line 20, strike out "(2)" and insert in lieu thereof "(g)"; and

(3) in line 21, strike out the word "other".

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

Mr. HENDERSON. Mr. Chairman, my amendment will delete the provisions of section 4(g)(1), which authorize five political appointments to be made by the Chairman of the Consumer Product Safety Commission.

The provisions my amendment will delete, authorize the Chairman of the Commission, subject to the approval of the Commission, to appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information—

First, without regard to the requirements governing appointments in the competitive civil service;

Second, without regard to the requirements relating to the classification of positions; and

Third, without regard to the General Schedule rates of pay except that the rate of pay fixed by the Chairman for any such appointee may not exceed the rate in effect for GS–18 of the General Schedule.

The provisions have the effect of authorizing five additional supergrades which may be filled by political appointees.

Section 4 of this legislation establishes an independent regulatory commission, the Consumer Product Safety Commission. The Commission will be bipartisan, since no more than three Commissioners may belong to the same political party.

I believe it is proper for the Commission of a regulatory agency, such as this agency, to be bipartisan. I believe it to be more important than the appointees to the five top positions of the new regulatory Commission not be subject to political appointment. They should be appointed under the usual requirements governing appointments to the competitive civil service.

I find no similar provisions or authority for appointments to be made in other regulatory agencies without regard to the competitive civil service. As a matter of fact, the regulatory agencies I have checked, such as the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Communications Commission, and the Federal Trade Commission, do not have authority proposed to be granted by this legislation.

My amendment, by striking out paragraph (1) of subsection (g), has the effect of subjecting the appointments to the top positions in the new regulatory

agency, to the usual competitive civil service requirements. Authority for such appointments is included in other provisions of subsection (g).

Another objectionable feature of the provision which I propose to eliminate, is that it permits the Chairman of the Commission to fix rates of pay for the five positions at the supergrade levels.

As I have stated many times before this House, this is a matter that is strictly within the jurisdiction of the Post Office and Civil Service Committee.

Mr. Chairman, first of all, this matter should have been handled by the Post Office and Civil Service Committee, and second, we are considering legislation which will afford some flexibility in filling supergrade positions. I urge the adoption of my amendment.

Mr. GROSS. Will the gentleman yield?

Mr. HENDERSON. I am delighted to yield to the gentleman from Iowa, the ranking member of the House Committee on Post Office and Civil Service.

Mr. GROSS. I thank the gentleman from North Carolina for yielding, and join in support of his amendment. The House has on several occasions stricken such language from other bills, and I urge the members to approve the amendment.

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

The amendment offered by the gentleman from North Carolina has the effect of striking out not only the authority to appoint outside of the civil service but takes away the specific authority of the director to appoint the designated five officials in effect at a GS–18 level.

After discussion with the chairman, I have been informed that the committee would be agreeable to accepting an amendment which would require that the five enumerated officials at a grade of GS–18 be appointed from the scheduled civil service.

Mr. HENDERSON. Would the gentleman yield for one moment?

Mr. MOSS. I yield to the gentleman.

Mr. HENDERSON. As I understand, it you are suggesting if we would leave in the language of the five, it would be agreeable, but I hope you are not suggesting they have to be GS–18's. That is not your intent, is it?

Mr. MOSS. At an annual basic rate of pay that would not be in excess of GS–18. That would be the sense of the amendment.

Mr. HENDERSON. Mr. Chairman, I ask unanimous consent that my amendment be amended to provide for striking out the language beginning in line 11, on page 65, with the word "individuals," and if that is acceptable, it would leave the enumeration of the five positions in.

Mr. MOSS. That is agreeable to this side.

The CHAIRMAN. The Clerk will report the proposed modification made in the nature of a unanimous-consent request.

Will you please send it to the desk, or would you restate it?

Mr. HENDERSON. I would prefer to restate it.

My amendment would be amended to provide that it should strike out all in paragraph (g)(1), beginning in line 11 on page 65 with the word "individuals." It would have the effect of leaving the first sentence which enumerates the five positions in the bill.

The CHAIRMAN. The Clerk will report the amendment as proposed to be modified.

Mr. STAGGERS. May I clarify the amendment, if I might, before it is being reported?

The CHAIRMAN. The Chair would prefer to have the proposed amendment to the amendment at the desk in writing.

Mr. STAGGERS. I want to clarify with the gentleman from North Carolina (Mr. HENDERSON) what the intent of his modification is before we reach a general matter of agreement. Will the gentleman from California yield to me further for that purpose?

Mr. MOSS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to suggest that the first part of this down through "individuals" remain, and then end the amendment before the words "no individual so" on line 17, and then say that they shall not be paid in excess of GS–18.

Mr. HENDERSON. If the gentleman from California will yield——

Mr. MOSS. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Chairman, I have no objection to that. It is surplusage, because, if you appoint them by designation, they may be appointed at the salary of GS–18, and you say "shall not be in excess of." I have no objection.

If the gentleman will yield further, the effect of my amendment is there could be more than five. This is a limiting amendment to five.

Mr. MOSS. We do desire to limit it to five.

Mr. HENDERSON. Very well.

Mr. MOSS. I thank the gentleman.

Mr. HENDERSON. Mr. Chairman, I ask unanimous consent that my amendment may be so modified, and I would ask that the Clerk read the modification.

The CHAIRMAN. The Clerk will report the proposed modification of the amendment.

The Clerk read as follows:

On page 65, line 11, strike out "Individuals" and all that follows down through line 17, and insert in lieu thereof "No individual so".

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina (Mr. HENDERSON).

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. HENDERSON) as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. STAGGERS

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

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: On page 89 of the bill add after the word "product" the following new sentence: "The Commission may, in appropriate cases, permit information required under paragraph (1) and (2) of this subsection to be coded."

Mr. STAGGERS. Mr. Chairman, this amendment simply allows the commission on such products as perhaps are not changed from year to year, and which are made and put on the shelves of a store for sale, that they do not have to be dated specifically, but that they may have a coded date. It is left up to the commission as to whether or not they think it is essential that a specific manufacturing date be put on, otherwise they may have a coded date. This is a very simple amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the amendment is acceptable to this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MOSS

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

The Clerk read as follows:

Amendment offered by Mr. MOSS: page 109, insert after line 5 the following:

"(d) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission."

Page 109, line 6, strike out "(d)" and insert in lieu thereof "(e)".

Page 109, line 15, strike out "(e)" and insert in lieu thereof "(f)".

Page 109, line 20, strike out "(f)" and insert in lieu thereof "(g)".

Page 109, line 24, strike out "(g)" and insert in lieu thereof "(h)".

Page 110, line 3, strike out "(h)" and insert in lieu thereof "(i)".

Page 118, line 18, strike out "section 27(g)" and insert in lieu thereof "section 27(h)".

Page 119, line 8, strike out "section 27(g)" and insert in lieu thereof "section 27(h)".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. MOSS. Mr. Chairman, the purpose of this amendment is to make it very clear that the persons supplying information at the request of the commission, incur no liability because of the supplying of the information.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman.

Mr. BROYHILL of North Carolina. Mr. Chairman, the members of the committee have discussed this amendment in some detail and have agreed to it.

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

Mr. MOSS. I yield to the gentleman.

Mr. GROSS. Do I understand that the remainder of the amendment—that portion that was not read—simply had to do with renumbering subsections?

Mr. MOSS. That is right.

Mr. GROSS. I thank the gentleman.

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

Mr. MOSS. I am happy to yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, this is a matter which I had not thought about at all. But I would like to consider with the gentleman for a minute the effect, the possible effect, of his amendment. I assume it changes the law in some respects. In other words, you are addressing yourself to a situation where there might be liability if you did not adopt this amendment—and I am just thinking as I go on—I am just wondering whether or not you want to give complete immunity—if that is what we are doing—to any and all individuals who might, for instance, disclose their employer's trade secrets, or confidential information of a slightly lesser degree, simply because some functionary of this commission demanded it.

Now maybe the man ought to have to make a choice there. I am not so sure he should be blanketed in and given immunity just because some bureaucrat asked for the information.

Mr. MOSS. The understanding of the gentleman from California, on the advice of counsel of the committee, is that it tends to clarify the common law on this matter of requiring in a report the disclosure of certain information which might be otherwise privileged.

Mr. DENNIS. I would say to the gentleman that ordinarily I find the common law pretty good, if you just leave it alone. I would feel a little more comfortable if we would leave them where the common law leaves them, instead of saying that there will not be any common law liability if somebody gives away this information.

Mr. MOSS. Those who have requested this amendment were the hospitals and insurance companies.

Mr. DENNIS. That does not satisfy me particularly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The question was taken; and on a division (demanded by Mr. Moss) there were—ayes 49, noes 10.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Moss: Page 114, insert after line 14 the following:

"(d) The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards, on a reimbursable basis, to perform research and analyses related to consumer product hazards (including fire and flammability hazards), to develop test methods, to conduct studies and investigations, and to provide technical advice and assistance in connection with the functions of the Commission."

Mr. MOSS. Mr. Chairman, I offer this amendment in response to a request of the Department of Commerce and the National Bureau of Standards. It was felt that the language here would insure utilizing facilities already existing rather than pressing, perhaps, to duplicate such facilities under some future planning of the agency.

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

Mr. MOSS. I yield to the gentleman from Iowa.

Mr. GROSS. Would the gentleman suggest that we might cut a few million dollars out of the authorization contained in the bill in view of the savings he projects?

Mr. MOSS. I believe that the authorization reflects the consensus of the committee to accept this amendment. We believe through the wisdom of those who appropriate, an examination of the needs as they are finally detailed to the Appropriations Committee will be made.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. As the gentleman from California knows, there is in this bill no sizable amount of money for construction, and we just want to make sure that the Commission does use those facilities presently available and if they have need to construct new facilities they have to come back to us and make a formal request.

Mr. MOSS. The gentleman is correct, and I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WHITE

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

The Clerk read as follows:

Amendment offered by Mr. WHITE: Page 81, line 15, by striking the period and adding the following: ", if such petition and reasons for such denial materially differ from any previous petition and subsequent denial."

Mr. WHITE. I present this particular amendment to the House in order to prevent a proliferation of petitions and subsequent placements of denials in the Federal Register. The bill provides that any person could petition the Commission, and then the Commission, if denying the petition, must subsequently put in the record their denial of that petition and the reasons for it. What I am saying by this amendment is that the Commission would not have to continue to put in denials, providing such petition and reasons for such denial do not materially differ from any previous petition and subsequent denial.

In other words, if there are one or two people continually writing in similar complaints, then we are not going to burden the Commission to place in the Register reasons for denials on the same type of petition. I am just trying to save the Government a considerable amount of money by preventing a voluminous Federal Register of Denials, if the Commission has the same denial and reasons for such denial on a similar petition already registered. That is the substance of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 68, line 24, after "therewith" insert the following: (unless the Commission finds that the public health and safety requires a lesser period of notice)".

Page 68, line 25, insert ", to the extent practicable," after "information".

Page 90, beginning on line 7 strike out "the oral presentation of views as well as for written presentations" and insert in lieu thereof "a hearing in accordance with subsection (f) of this section".

Page 91, line 2, strike out "section 554 of title 5, United States Code" and insert "subsection (f)".

Page 92, insert after line 22 the following:

"(f) An order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).

Mr. ECKHARDT. Mr. Chairman, section (c) that is referred to on page 90 deals with the administrative process which must precede the giving of notice of defect or failure to comply in the case of a product. Section (d) beginning on line 24 on page 90 deals with the ultimate action of the Commission which may order a company to bring a product into conformity or to replace the product or to refund money.

Originally we had provided two separate processes for these two administrative procedures. We had a more or less curtailed process with respect to the giving of public notice of the defect and we afforded the full ramifications of section 554 of title V of the United States Code to the ultimate process of calling for bringing the product into conformity. In other words the ultimate action of holding a product out of conformity and requiring it to be brought into conformity and the money paid back was protected by the full range of the Administrative Procedure Act's adjudicatory processes, but we had thought that a public notice of defect did not necessarily need quite that much protection and might have to be ordered rather summarily.

In discussing the matters with some of the industries that would be affected, they made the point, and I think they made it well, that to notify one's consumers that there may be a defect in one's own product may be very injurious, and that part of the total impact of the proceeding has been sustained by the industry before it has been afforded full process for its defense. Therefore, they said that there should be a fuller adjudicatory process, even preliminary to the defect notice.

They also raised this question: they said there should not be two different hearings. And if we set up merely the standards of section 553 with the additional requirement of the oral hearing as applicable to the defect notice and then we give the full ramifications of the adjudicatory process to the ultimate hearing, this requires two hearings. Why have two under the circumstances?

So, agreeing, we discussed it among the subcommittee and we offer this amendment, which makes the same process available to the notice of defect requirement as that applicable to the process calling for bringing the product into conformity and imposing other penalties or requirements.

Now there is only one thing that falls short of, or one thing somewhat different from, the provisions of 554 of title V of the United States Code. We do recognize that in some of these cases there might be a great number of people involved. This is somewhat like a rulemaking process, but it has adjudicatory aspects.

But it is like rulemaking in that there may be a great number of people distributing the same product, and we simply added the one qualification to the adjudicatory-type procedure that the Commission may require that those who have identical concerns and identical interests choose a single spokesman or else a single spokesman will be chosen and designated. We give the full right of cross-examination in both processes, with that very limited limitation. That is the effect of this amendment.

Now, the amendment to the earlier provisions on page 68 is merely to make it clear that in a proper case, since we are not providing for the quicker means of compelling the manufacturer to give notice of defects that the agency itself may give that notice at an earlier time than after the 30 days ordinarily required as a waiting period.

That is the effect of this amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I want the Members of the Committee to know that what you are doing with your amendment is giving a manufacturer whose product is found to be in noncompliance, a greater right to be heard, to have his day in court, as the old saying is, and give him far more protection under this language in the bill. I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

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

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 59, beginning on line 17, strike out "any article" and all that follows down through "any such article, (F)" in line 23.

Page 60, line 2, strike out "(G)" and insert in lieu thereof "(F)".

Mr. BINGHAM. Mr. Chairman, I would first like to say that I think this is an excellent bill. I compliment the committee for it. I certainly intend to support it whether or not my amendment is adopted.

The purpose of my amendment, very simply, would be to restore to the bill the coverage of firearms. Firearms were covered in the original bill as introduced by the distinguished gentleman from California (Mr. Moss), for whom I have the greatest admiration, and by other members of the committee. Then, subsequently, during the committee deliberations, the paragraph was inserted in the bill excepting firearms very specifically from the definition of the term "consumer product." It is that paragraph which my amendment would delete.

I would submit to the members of the committee that firearms are an important "consumer product." Some 6 million are sold every year in this country. While firearms are regulated in some respects, they are not regulated with regard to safety. According to the 1969 Eisenhower Commission on Fire Arms and Violence, firearms are the fifth most common cause of accidental deaths in this country, coming after motor vehicles, falls, fires, and drownings. Aside from motor vehicles, firearms are the single consumer item most consistently involved in accidental death.

Moreover, according to the 1970 final report of the National Commission on Product Safety, which appears in full in the committee hearings, 150,000 people are injured in gun accidents every year.

Now, Mr. Chairman and members of the House Committee, do not be alarmed. I am not bringing out a real pistol to show you at this time, but here is something that I want to show you. Here in my hand is a product that will be covered by this bill. This is a toy pistol. It shoots a little pellet and operates by a spring. This pistol will be covered under the provisions of this bill. But, if this were the real McCoy, if this was something that could blow up in your face and kill you or with which you could kill other people, it would not be covered.

I suggest that this is a topsy-turvy arrangement.

This is not a gun control amendment. It would not affect the question of who might buy guns or under what conditions. It is simply and purely a safety amendment. Hopefully, it would prevent the sale of guns that are unsafe.

I do not always agree with the actions by the other body, but I would call attention to the fact that in the version of this legislation passed by the other body firearms were included within the scope of the legislation.

I hope the Members will support the amendment.

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

Mr. Chairman, it pains me somewhat to have to oppose the amendment offered by my distinguished colleague from New York, but I find that I must, for good and sufficient reasons. These are mainly, that neither the Committee on Interstate and Foreign Commerce nor the special Commission on Consumer Product Safety made any kind of an inquiry into firearms. As a matter of fact, it was not included in the original bill, nor was it intended to be.

Out of an abundance of caution, to make clear that it was not to be included, on the redraft we specifically exempted it in order to accord with the instructions given by the Committee on Interstate and Foreign Commerce in the resolution creating the National Commission on Product Safety.

I have here the report of the National Commission of Product Safety, and in the report is included the statutory language creating the Commission. In section 6 of that language, under the definitions, the Commission was specifically excluded from considering the Federal Firearms Act (15 USC 901) and the National Firearms Act was also not within the scope of their activities. It was not within the scope of the hearings.

The distinguished gentleman from New York appeared before the National Commission on Product Safety and gave testimony on other matters but not on firearms.

I have checked carefully the records of the Subcommittee on Commerce and Finance and find no instance of the gentleman requesting the opportunity to come forward and urge the committee to go beyond the scope of the proposals as outlined in the actions of the Congress back in the mid 1960's when we created the National Commission on Product Safety.

This would not necessarily make firearms more safe. We are concerned primarily about the accidental use of firearms. It would not touch that problem. I do not believe we should here attempt to mislead the public. I am afraid that is what would happen if we were to suddenly have a firearms act without any kind of history as to what we intended. I believe it is an important enough subject to be dealt with as a separate subject.

It is being dealt with by the Committee on the Judiciary and I believe the Committee on Ways and Means has jurisdiction also. Neither we in the Committee on Interstate and Foreign Commerce nor in the Subcommittee on Commerce and Finance have at any time undertaken to deal with this subject.

I urge the defeat of the amendment.

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

Mr. Chairman, I am not going to take all of the 5 minutes, but I want the Members not to treat this amendment lightly. They ought to recognize what it does.

The present bill defines "consumer products" so as to exclude firearms. The amendment proposed strikes that exclusion and, if adopted, "consumer products" would include firearms.

If consumer products do include firearms, authority is granted to the Commission to set certain standards with respect to consumer products which include, among other things, requirements as to performance, composition, design, construction, and other matters. Failing in meeting those standards subject to certain administrative review provisions, the consumer product can be denied in commerce entirely.

Therefore, what we have, no more nor less, is a gun control bill by administrative rule rather than by act of Congress

Now, I want to say that I support a regulation of weapons. The House Judiciary Committee is now considering a gun control bill of sorts and I expect to support a reasonable bill. But the Congress ought to consider it, and the Congress ought to adopt the law and not delegate its responsibility to a commission, and that is precisely what would happen if the amendment of the gentleman is adopted.

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

Mr. WIGGINS. Yes, of course, I will yield to the gentleman.

Mr. HOLIFIELD. I wish to aline myself with the remarks of the gentleman from California (Mr. Moss) and the gentleman now in the well (Mr. WIGGINS).

This is a good way to kill this bill. As everybody knows, the gun control issue is a very controversial matter.

Now, they have a good bill; the committee has a good bill here on consumer safety, and regardless of the merit of the gentleman's amendment, from an ideological or theoretical standpoint, the one way to kill this bill is to attach controversial measures to it and have it die over in the other body with months of debate.

Mr. WIGGINS. I agree with the gentleman.

And one further point in conclusion: In the bill now pending before the Judiciary Committee the Secretary of the Treasury is granted very limited authority with respect to promulgating rules and regulations affecting guns. Congress is going to define carefully the authority of the Secretary to promulgate regulations under the legislation pending before the Judiciary Committee.

This legislation, on the other hand, grants almost carte blanche authority to a commission which is not subject to the kind of close legislative scrutiny which would be provided under the bill now pending before the Judiciary Committee.

Ladies and gentlemen, I urge the defeat of this amendment.

The CHAIRMAN. For what purpose does the gentleman from West Virginia, the chairman of the committee, rise?

Mr. STAGGERS. I move to strike the last word.

If I understood the gentleman who just spoke, I understand that he urged the defeat of the amendment; is that right?

Mr. WIGGINS. That is correct.

Mr. STAGGERS. I just wish to say this: We have no jurisdiction in our committee. This would give us jurisdiction in part and would put all the work on the other two committees in what they are doing.

Mr. RANDALL. Mr. Chairman, H.R. 15003 is for the most part a good bill and should be passed by the House. It would be difficult for a Member to oppose a bill which has its title, "A bill to protect consumers against unreasonable product hazards," and then provides in section 1 that the act may be cited as the "Consumer Product Safety Act." To be against objectives or purposes such as these is almost like being against motherhood or the flag.

However, Mr. Chairman, the amendment offered by the gentleman from New York is one that requires a very careful analysis. As you read the amendment, at first there seems to be almost nothing wrong with striking out several lines of the bill commencing at line 17 on page 59 which defines the term "consumer product." The section which is striken out, section E, is one among several listings of exceptions or exemptions to what is defined as a consumer product.

Now I would never attribute to the gentleman from New York anything but the best motives. But I cannot help but be suspicious that this amendment deserves a careful look because while it is innocent appearing, it seems to me that it could be an adroit attempt by the antigun lobby to bring gun control in through the back door in what is otherwise a completely acceptable consumer products safety bill.

We must recall that this bill deals with product hazards or, if turned around in the other direction, product safety. I sense that if this amendment were to be adopted it would remove some exception or some of those exemptions not intended to be included within the definition of consumer products.

In other words, this amendment would permit the inclusion of ammunition and firearms as a consumer product. We all know, of course, that the Consumer Product Safety Commission created by this bill will have the power and authority to lay down standards as to what products are safe and what products are hazardous. If the amendment of the gentleman from New York should pass, there would be nothing to keep the Commission from declaring that all guns of any or every type, and ammunition of all sorts, are dangerous and hazardous products and thereby achieve through indirection what the antigun lobby has never been able to enact directly—their avowed objective to outlaw all guns and ammunition.

Mr. Chairman, I repeat that it is possible this amendment could very well provide for gun control through the back door. It could very well mean that this subtle and rather innocent appearing amendment could result in taking guns away from our sportsmen and law abiding citizens. If the Consumer Commission saw fit it could impair the personal security of all of our citizens by limiting the right they now enjoy to possess firearms to make them secure in their homes.

No, Mr. Chairman, I am willing to face the issue of gun control squarely, either vote it up or down. But let us not do it this way, through the back door. Of course, many of us feel that the best approach to the so-called gun problem is the quick enactment of mandatory penalties for those using firearms in the commission of a crime. We should even get so tough as to deny parole to those using firearms when committing a crime. But today let us not fool ourselves and then later wake up to be surprised at the purpose of this amendment. Then it will be too late to do anything about it. This amendment must be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 115, line 2, insert after the period the following: "All functions of the Secretary of Health, Education, and Welfare under subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation), except to the extent that such functions relate to electronic product radiation emitted from electronic products which are devices (as defined in section 201 (h) of the Federal Food, Drug, and Cosmetic Act), are transferred to the Commission."

Page 118, line 7, strike out "The" and all that follows down through line 14 on such page.

Mr. ECKHARDT. Mr. Chairman, what this amendment does is transfer authority to the new agency to deal with products which are dangerous because of radiation, except that it does not deal with those products that are used medically, those that are defined under the Food and Drug Act in section 201(h) like X-ray equipment, and so forth, in doctor's offices.

Now, there is no provision in the act as now written that would cover a situation as, for instance, one involving a TV set that emitted radiation. It seems to me utterly ridiculous to put in this authority the control, for instance, of a TV set because it may shock a person and not give authority to the same agency to control the TV set because it emits radiation.

It seems to me legislation which purports to establish in a single agency the authority to protect the public and which protects the public from sustaining a slight shock or cut or injury but which does not protect them from having their children turn out like Mark Twain's Puddin' Head Wilson is rather defective.

For that reason I have tried to bring together in the agency the authority to control all types of dangers to the consumer without trespassing on that very proper jurisdiction of the FDA of controlling that type of equipment relating to medical use. What would be covered by this amendment would be consumer products. They should fall under the product safety agency.

That is all the amendment does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. STAGGERS) there were—ayes 10, noes 46.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. PEPPER

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

The Clerk read as follows:

Amendment offered by Mr. PEPPER: Page 104, line 13, after "state", strike out "statutory."

Mr. PEPPER. Mr. Chairman and members of the Committee, those of you who have the bill before you, if you will note, on page 104, line 11, it provides "the remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State statutory law."

I have conferred with the able members of the committee to call their attention to the fact that the word "statutory" is a limitation here upon the right of the complainant to bring suit in the State court. He should have the right to bring suit under State case law as well as under State statutory law. I am sure the committee did not intend to limit him just to statutory rights.

Mr. STAGGERS. Will the gentleman yield?

Mr. PEPPER. I am glad to yield to the gentleman.

Mr. STAGGERS. Mr. Chairman, I have no objection, and I do not think anyone on this side of the aisle does to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. RANGEL: Page 71, line 3, insert after the period the following: "Any labeling warnings or instructions required under a consumer product safety standard shall be printed both in English and Spanish, and shall be printed in any other language which the Commission determines is appropriate."

Page 90, insert after line 23 the following: "Any such notice shall be given both in English and Spanish, and shall be given in any other language which the Commission determines is appropriate."

Mr. RANGEL. Mr. Chairman and Members of the committee, we have before us today a piece of landmark legislation that is dramatic enough to call for congratulations to the drafters of the legislation because it takes into consideration the protection of life and the prevention of injuries.

In this country we have at least 12 million Spanish-speaking people as recorded by the Census Bureau, and for 70 percent of them Spanish is their primary language. We do have a problem in many of our States such as in New York State where we have some 1.2 million people of Spanish descent which represents 13 percent of our population, and I am certain that there are other States who have the very same problem where the failures of the public school systems have failed many of the people, who have come to this country to improve their political and economic lives, through their inability to deal with the English language.

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

Mr. RANGEL. I yield to the gentleman.

Mr. STAGGERS. Mr. Chairman, just for clarification, since I do not have a copy of the gentleman's amendments in front of me, would this be mandatory that these be printed both in English and in Spanish?

Mr. RANGEL. No, it is not mandatory.

Mr. STAGGERS. Would the gentleman yield further?

Mr. RANGEL. I yield further to the chairman of the committee.

Mr. STAGGERS. I would say to the gentleman from New York that this is inherent in the law now, and with the commission, that this is permitted, and that they are permitted to have this done wherever it is needed. So I do not think that the amendments are necessary, and I can assure the gentleman from New York that this is the intent of the law.

Mr. RANGEL. Mr. Chairman, in view of the statement by the Chairman, the gentleman from West Virginia (Mr. STAGGERS) and since it is a matter of record, I ask unanimous consent that I may be permitted to withdraw my amendments.

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

There was no objection

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

(By unanimous consent, Mr. MATSUNAGA was allowed to speak out of order.)

GROSSLY EXAGGERATED REPORTS

Mr. MATSUNAGA. Mr. Chairman, late yesterday I returned from Hawaii and rushed from the airport to the floor of the House to cast my vote in favor of the HEW appropriation measure. I then went to my office, handled a few rush matters, and left for my home in Kensington. While I was viewing "Hawaii Five-O" on television with my family, for the special purpose of watching the TV debut of Ed Flood, the son of my good friend Jim Flood, my daughter received a telephone call from a news reporter who was trying to confirm reports that Congressman SPARK MATSUNAGA had suffered a heart attack and had been rushed to the hospital.

To paraphrase Mark Twain, who, upon seeing his name in the obituary column, called the editor and remarked that that news of his demise was slightly exaggerated, let me say loud and clear, here and now, that news reports broadcast over the radio of my having been rushed to the hospital on account of a heart attack have been grossly exaggerated.

Since early this morning I have been receiving telephone calls from concerned friends and colleagues of the Congress, inquiring about my condition and conveying their condolences. I would admit to a slight acceleration of cardiopalpitation on viewing a lovely Hawaiian hula maiden doing a Tahitian dance, but no more—my heart is sound. I have never had a heart attack and certainly am not anticipating any. But to my dear friends who made personal inquiries about my health let me say, "Mahalo nui loa," which in Hawaiian means thank you very much.

Mr. GROSS. Mr. Chairman, I move to strike out the necessary number of words.

I should like to ask the chairman or someone knowledgeable about this bill, with respect to section 18. Does this mean products which would otherwise be disqualified under this Consumer Product Safety Act could be exported to foreign countries?

Mr. STAGGERS. If I understand the gentleman's question—that products are excluded?

Mr. GROSS. Products that might not meet the standards established in this bill for domestic use could be exported?

Mr. STAGGERS. No standards have been set on products that are exported.

Mr. GROSS. Why did you put this section in the bill. You are simply calling attention to the fact that you are perfectly willing to permit manufacturers in this country to make unsafe products and to ship them abroad—if I read this right.

Mr. STAGGERS. We are not trying to make the law for any country.

In certain instances certain products might be wrong here, but they might be all right in other countries—we do not know.

But we do know that they have their own laws and they import products and we cannot make the laws for other countries.

Our laws exclude these, of course, and anything else that comes from many of these countries. They import their products from other foreign countries and they do not require any more than may be done in our country. Millions of dollars of merchandise is exported that we would not be able to export from this country because they make their own laws because some would not even be applicable in other countries.

Mr. GROSS. The gentleman is saying, is he not, that we might ship an electrical tool that was dangerous to handle to a foreign country, one that would not meet the standards for sale in this country for sale to consumers? Then what may we expect in return from those who ship products to this country—are they supposed to be safe or unsafe?

Mr. STAGGERS. We require that they be safe in every way. They have to conform to our standards and anything we import from them has to come up to the standards set up by the Commission.

Mr. GROSS. We have a double standard; is that right?

Mr. STAGGERS. No, sir, not for America anyway.

Mr. GROSS. That is the only way I can read section 18 of this bill—that the bill provides two standards.

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

Mr. GROSS. I yield to the gentleman.

Mr. MOSS. Yes, it clearly is a double standard because other nations want to have standards lower than ours and open up their markets to products which are nonsafe, as we require for use in our country, and if we deny our manufacturers a right to participate in that market all we are doing is denying them job opportunities because other countries will manufacture and ship into those nations products which conform to their standards. This is not new. We do it under the automobile safety standards and we do it in many cases.

Mr. GROSS. Then I do not know why it has to be written into this bill.

Mr. MOSS. If it is not written into the bill, then they would be prohibited from manufacturing in the United States nonconforming products. This authorizes the manufacturers of nonconforming products for export only.

Mr. GROSS. That is the export of nonconforming products?

Mr. MOSS. As you will, but if we do otherwise we would be working a severe penalty against American manufacturers in worldwide competition.

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

Mr. GROSS. I yield to the gentleman.

Mr. ROUSSELOT. Let me ask the gentleman from California another question. In other words in this section of the bill—section 18—we are perfectly willing to export and sell products to foreign consumers what we are not willing

to sell to our own consumers; is that correct?

Mr. MOSS. Would the gentleman from Iowa yield for a reply?

Mr. GROSS. I yield to the gentleman.

Mr. MOSS. I would say, of course, that is not the case. We are willing to export at standards set by the Government receiving the products manufactured in the United States.

Mr. ROUSSELOT. Suppose these are consumer items?

Mr. MOSS. They will be consumer items.

Mr. ROUSSELOT. Then I believe my statement is correct. We are willing to sell so-called defective products to foreign consumers but not willing to sell the same products to our own U.S. consumers.

Mr. MOSS. Would the gentleman propose to amend the bill to require that no product nonconforming to domestic standards be exported and thereby denying a very significant part of the world market to American manufacturers?

Mr. ROUSSELOT. I do not want to deny any proper markets to our manufacturers.

Mr. MOSS. That is exactly what you would do.

Mr. ROUSSELOT. What I am saying is—if we are willing to impose conditions on products to our U.S. consumers, those same conditions ought to be good enough for foreign consumers.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. GROSS asked and was given permission to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, since the gentleman from Texas is on his feet, I would like to ask him where it is proposed to get the $308 million to fund this brandnew super-duper commission and advisory council and all the bureaucrats that are going to go with it? Is there any provision in this bill for raising the taxes to provide the money?

Mr. ECKHARDT. Mr. Chairman, I had not risen for that purpose, but rather to answer the gentleman's first question.

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

Mr. Chairman, the points that the distinguished gentleman from Iowa raises do appear to be serious questions, but on a little further consideration one can see how impossible it would be for us to impose on our manufacturers standards for foreign export when we have no control over either the economic processes in those countries nor their controls of production of products in their own countries.

Let us suppose, for instance, you have a drill, and our standards require that you have to have a grounding wire and a plug that goes into a three-plug circuit. Let us suppose that in another country they do not use those at all. There is no way you can plug the drill in, but they are manufacturing drills with only two circuit wires and selling them in that country, and they are also receiving the same kind of articles from the Soviet Union. Why conceivably should we not be in a position to compete with other exporters into that country? Quite clearly persons in that country not using plugs for grounding circuit would have no use whatsoever for the third grounding wire and would probably cut it out. Why should not another nation establish its own standards of safety? But if it does not, should we impose our standards upon them and in so doing discriminate against our manufacturers who are in competition with manufacturers in other nations exporting to that same country?

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. BOLLING, 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. 15003) to protect consumers against unreasonable product hazards, pursuant to House Resolution 1116, 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 committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

Mr. MOSS. Mr. Speaker, I demand a separate vote on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The SPEAKER. Without objection, the action by which the amendment was agreed to is rescinded.

Mr. DENNIS. Mr. Speaker, reserving the right to object, my understanding is that the amendment was agreed to and that the gentleman's request comes too late.

The SPEAKER. The Chair was under the impression that no separate vote was demanded and put the question on adoption of the amendment.

The Chair put as a unanimous consent request, that the action by which the amendment was agreed be rescinded.

Mr. DENNIS. I object.

The SPEAKER. Objection is heard.

Mr. DENNIS. I object because the amendment has been adopted.

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. Mr. Speaker, on the basis of the discussion here I certainly am.

The SPEAKER. The gentleman qualifies. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROUSSELOT moves to recommit the bill H.R. 15003 to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

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

The motion to recommit was rejected.

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

The bill was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, pursuant to the provisions of House Resolution 1116, I call up for immediate consideration the bill S. 3419.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 3419 and insert in lieu thereof the provisions of H.R. 15003, as passed, as follows:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Consumer Product Safety Act".

TABLE OF CONTENTS

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) an unacceptable number of consumer products which contain unreasonable hazards are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an in-

ability of users to anticipate hazards and to safeguard themselves adequately;

(3) the public should be protected against unreasonable hazards associated with consumer products;

(4) control by State and local governments of unreasonable hazards associated with consumer products in inadequate and may be burdensome to manufacturers; and

(5) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this Act.

(b) The purposes of this Act are—

(1) to protect the public against unreasonable hazards associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

DEFINITIONS

SEC. 3. (a) For purposes of this Act.

(1) The term "consumer product" means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a household or residence, a school, in recreation, or otherwise; but such term does not include (A) any article which is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer; (B) tobacco and tobacco products, (C) motor vehicles or motor vehicle equipment (as defined by sections 102 (3) and (4) of the National Traffic and Motor Safety Act of 1966), (D) economic poisons (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act), (E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article, (F) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), or (G) food. The term "food", as used in this paragraph, means all "food", as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in sections 4(e) and (f) of the Poultry Products Inspection Act), meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(2) The term "consumer product safety rule" means a consumer product safety standard described in section 7(a), or a rule under this Act declaring a consumer product a banned hazardous product.

(3) The term "hazard" means a risk of death, personal injury, or serious or frequent illness.

(4) The term "manufacturer" means any person who manufactures or imports a consumer product.

(5) The term "distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

(6) The term "retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(8) The term "manufacture" means to manufacture, produce, or assemble.

(9) The term "Commission" means the Consumer Product Safety Commission, established by section 4.

(10) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(11) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(13) The terms "import" and "importation" include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

(14) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) A common carrier, contract carrier, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CONSUMER PRODUCT SAFETY COMMISSION

SEC. 4. (a) An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated, shall act as Chairman until the expiration of his term of office as Commissioner. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b)(1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after the date of the enactment of this Act, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) Not more than three of the Commissioners shall be appointed from the same political party. No individual in the employ of, or holding any official relation to, any person, engaged in selling or manufacturing consumer products or owning stock or bonds of substantial value in a person so engaged or who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

(f)(1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(g)(1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(2) The Chairman, subject to subsection (f)(2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions. No full-time officer or employee of the Commission who was at any time during the 12 months preceding the termination of his employment with the Commission compensated at a rate in excess of the annual rate of basic pay in effect for grade GS–14 of the General Schedule, shall accept employment or compensation from any manufacturer subject to this Act, for a period of 12 months after terminating employment with the Commission.

(h)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(59) Chairman, Consumer Product Safety Commission."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraph:

"(96) Members, Consumer Product Safety Commission (4)."

PRODUCT SAFETY INFORMATION AND RESEARCH

SEC. 5. (a) The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate information relating to the causes and prevention of death, injury, and illness associated with consumer products; and

(2) conduct such continuing studies and investigations of deaths, injuries, diseases,

other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary.

(b) The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods.

(c) In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Whenever the Federal contribution for any information, research, or development activity authorized by this Act is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 6. (a)(1) Nothing contained in this Act shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress.

(b)(1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds that the public health and safety requires a lesser period of notice), the Commission shall provide such information, to the extent practicable, to each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant hazard associated with such product.

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 7. (a) The Commission may by rule, in accordance with this section and section 9, promulgate consumer product safety standards. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product. The requirements of such a standard (other than requirements relating to labeling, warnings, or instruction) shall, whenever feasible, be expressed in terms of performance requirements.

(b) A proceeding for the development of a consumer product safety standard under this Act shall be commenced by the publication in the Federal Register of a notice which shall—

(1) identify the product and the nature of the hazard associated with the product;

(2) state the Commission's determination that a consumer product safety standard is necessary to prevent or reduce the hazard;

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceeding; and

(4) include an invitation for any person, including any State or Federal agency (other than the Commission), within 30 days after the date of publication of the notice (A) to submit to the Commission an existing standard as the proposed consumer product safety standard or (B) to offer to develop the proposed consumer product safety standard.

An invitation under paragraph (4)(B) shall specify a period of time, during which the standard is to be developed, which shall be a period ending 150 days after the publication of the notice, unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.

(c) If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under this Act would prevent or reduce the unreasonable hazard associated with the product, then it may, in lieu of accepting an offer pursuant to subsection (d) of this section, publish such standard as a proposed consumer product safety rule.

(d)(1) Except as provided by subsection (c), the Commission shall accept one, and may accept more than one, offer to develop a proposed consumer product safety standard pursuant to the invitation prescribed by subsection (b)(4)(B), if it determines that the offeror is technically competent, is likely to develop an appropriate standard within the period specified in the invitation under subsection (b), and will comply with regulations of the Commission under paragraph (3). The Commission shall publish in the Federal Register the name and address of each person whose offer it accepts, and a summary of the terms of such offer as accepted.

(2) If an offer is accepted under this subsection, the Commission may agree to contribute to the offeror's cost in developing a proposed consumer product safety standard, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings.

(3) The Commission shall prescribe regulations governing the development of proposed consumer product safety standards by persons whose offers are accepted under paragraph (1). Such regulations shall include requirements—

(A) that standards recommended for promulgation be suitable for promulgation under this Act, be supported by test data or such other documents or materials as the Commission may reasonably require to be developed, and (where appropriate) contain suitable test methods for measurement of compliance with such standards;

(B) for notice and opportunity by interested persons (including representatives of consumers and consumer organizations) to participate in the development of such standards;

(C) for the maintenance of records, which shall be available to the public, to disclose the course of the development of standards recommended for promulgation, the comments and other information submitted by any person in connection with such development (including dissenting views and comments and information with respect to the need for such recommended standards) and such other matters as may be relevant to the evaluation of such recommended standards; and

(D) that the Commission and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records relevant to the development of such recommended standards or to the expenditure of any contribution of the Commission for the development of such standards.

(e)(1) If the Commission has published a notice of proceeding as provided by subsection (b) and has not, within 30 days after the date of publication of such notice, accepted an offer to develop a proposed consumer product safety standard, the Commission may develop a proposed consumer product safety rule and publish such proposed rule.

(2) If the Commission accepts an offer to develop a proposed consumer product safety standard, the Commission may not, during the development period (specified in paragraph (3)) for such standard—

(A) publish a proposed rule applicable to the same hazard associated with such product, or

(B) develop proposals for such standard or contract with third parties for such development, unless the Commission determines that no offeror whose offer was accepted is making satisfactory progress in the development of such standard.

(3) For purposes of paragraph (2), the development period for any standard is a period (A) beginning on the date on which the Commission first accepts an offer under subsection (d)(1) for the development of a proposed standard, and (B) ending on the earlier of—

(i) the end of the period specified in the notice of proceeding (except that the period specified in the notice may be extended if good cause is shown and the reasons for such extension are published in the Federal Register), or

(ii) the date on which it determines (in accordance with such procedures as it may by rule prescribe) that no offeror whose offer was accepted is able and willing to continue satisfactorily the development of the proposed standard which was the subject of the offer, or

(iii) the date on which an offeror whose offer was accepted submits such a recommended standard to the Commission.

(f) Not more than 210 days after its publication of a notice of proceeding pursuant to subsection (b) (which time may be extended by the Commission by a notice published in the Federal Register stating good cause therefor), the Commission shall publish in the Federal Register a notice withdrawing such notice of proceeding or publish a proposed rule which either proposes a product safety standard applicable to any consumer product subject to such notice, or proposes to declare any such subject product a banned hazardous consumer product.

BANNED HAZARDOUS PRODUCTS

SEC. 8. Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable hazard to the public; and

(2) no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product,

the Commission may propose and, in accordance with section 9, promulgate a rule declaring such product a banned hazardous product.

ADMINISTRATIVE PROCEDURE APPLICABLE TO PROMULGATION OF CONSUMER PRODUCT SAFETY RULES

SEC. 9. (a)(1) Within sixty days after the publication under section 7(c), (e)(1), or (f) or section 8 of a proposed consumer product safety rule respecting a hazard associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the hazard associated with such product if it makes the findings required under subsection (c), or

(B) withdraw by rule the applicable notice of proceeding if it determines that such rule is not (i) reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product, or (ii) in the public interest;

except that the Commission may extend such sixty-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules which have been proposed under section 7(c), (e)(1), or (f) or section 8 shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(b) A consumer product safety rule shall express in the rule itself the hazard which the standard is designed to prevent or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act.

(c)(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the hazard the rule is designed to prevent or reduce, and

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule; and

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need.

(2) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule)—

(A) that the rule (including its effective date) is reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product;

(B) that the promulgation of the rule is in the public interest; and

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product.

(d) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date.

(e) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections 7 and 8, and subsections (a) through (d) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (a)(2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product. Section 11 shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

PETITION BY INTERESTED PARTY FOR CONSUMER PRODUCT SAFETY RULE

SEC. 10. (a) Any interested person, including a consumer or consumer organization, may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule.

(b) Such petition shall be filed in the principal office of the Commission and shall set forth—

(1) facts which it is claimed establish that a consumer product safety rule or an amendment or revocation thereof is necessary; and

(2) a brief description of the substance of the consumer product safety rule or amendment thereof which it is claimed should be issued by the Commission.

(c) The Commission may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not such petition should be granted.

(d) If the Commission grants such petition, it shall promptly commence an appropriate proceeding to prescribe a consumer product safety rule, or take such other action as it deems appropriate. If the Commission denies such petition it shall publish in the Federal Register its reasons for such denial, if such petition and reasons for such denial materially differ from any previous petitions and subsequent denial.

JUDICIAL REVIEW OF CONSUMER PRODUCT SAFETY RULES

SEC. 11. (a) Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by him for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code. For purposes of this section, the term "record" means such consumer product safety rule; any notice or proposal published pursuant to section 7, 8, or 9; the transcript required by section 9(a)(2) of any oral presentation; any written submission of interested parties; and any other information, which the Commission considers relevant to such rule.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. The consumer product safety rule shall not be affirmed unless the Commission's findings under section 9(c) are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided for in this sec-

tion shall be in addition to and not in lieu of any other remedies provided by law.

IMMINENT HAZARDS

SEC. 12. (a) The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b)(2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this Act. As used in this section, and hereinafter in this Act, the term "imminently hazardous consumer product" means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b)(1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a)(2)) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a)(1), the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of such action or as soon thereafter as may be practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d)(1) Prior to commencing an action under subsection (a), the Commission may consult the Product Safety Advisory Council (established under section 28) with respect to its determination to commence such action, and request the Council's recommendations as to the type of temporary or permanent relief which may be necessary to protect the public.

(2) The Council shall submit its recommendations to the Commission within one week of such request.

(3) Subject to paragraph (2), the Council may conduct such hearing or offer such opportunity for the presentation of views as it may consider necesary or appropriate.

(e)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(f) Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

NEW PRODUCTS

SEC. 13. (a) The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

(b) For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products and (2) as to which there exists a lack of information adequate to determine the safety of such product in use by consumers.

PRODUCT CERTIFICATION AND LABELING

SEC. 14. (a)(1) Every manufacturer of a product which is subject to a consumer product safety standard under this Act and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture.

(2) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may be rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required by paragraph (1) of this subsection, and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1) to issue a certificate with respect to such product.

(b) The Commission may by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests or testing programs.

(c) The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule)—

(1) The date and place of manufacture of any consumer product.

(2) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which would permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.

(3) In the case of a consumer product subject to a consumer product safety rule, a certification that the product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permanently marked on or affixed to any such consumer product.

The Commission may, in appropriate cases, permit information required under paragraphs (1) and (2) of this subsection to be coded.

NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUND

SEC. 15. (a) For purposes of this section, the term "substantial product hazard" means—

(1) a failure to comply with an applicable consumer product safety rule which creates a substantial hazard to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial hazard to the public.

(b) Every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule; or

(2) contains a defect which could create a substantial product hazard described in subsection (a)(2), shall immediately inform the Commission of such failure to comply or of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(c) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for hearing in accordance with subsection (f) of this that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(1) to give public notice of the defect or failure to comply;

(2) to mail notice to each person who is a manufacturer, distributor, or retailer of such product; or

(3) to mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(d) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f)) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects—

(1) to bring such product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product;

(2) to replace such product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect; or

(3) to refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the pre-

ceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection.

(e) (1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

(f) An order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).

INSPECTION AND RECORDKEEPING

SEC. 16. (a) For purposes of implementing this Act, or rules or orders prescribed under this Act, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or (B) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this Act and rules under this Act.

IMPORTED PRODUCTS

SEC. 17. (a) Any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) shall be refused admission into such customs territory if such product—

(1) fails to comply with an applicable consumer product safety rule;

(2) is not accompanied by a certificate required by section 14, or is not labeled in accordance with regulations under section 14(c);

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 12;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 15(a)(2)); or

(5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 12 with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 of the United States Code with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission, unless subsection (c) of this section applies and is complied with.

(c) If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand redelivery of the product into customs custody, and to seize the product in accordance with section 22(b) if it is not so redelivered.

(e) Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product.

(f) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(g) The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.

EXPORTS

SEC. 18. This Act shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless such consumer product is in fact distributed in commerce for use in the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

PROHIBITED ACTS

SEC. 19. (a) It shall be unlawful for any person to—

(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this Act;

(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Act or rule thereunder.

(4) fail to furnish information respecting a substantial product defect, as required by section 15(b);

(5) fail to comply with an order issued under section 15 (c) or (d) (relating to notification, and to repair, replacement, and refund);

(6) fail to furnish a certificate required by section 14 or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c) (relating to labeling).

(b) Paragraphs (1) and (2) of section (a) shall not apply to any person (1) who holds a certificate issued in accordance with section 14(a) to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

CIVIL PENALTIES

SEC. 20. (a) (1) Any person who knowingly violates section 19 of this Act shall be subject to a civil penalty not to exceed $2,000 for each such violation. Subject to paragraph (2), a violation of section 19(a) (1), (2), (4), (5), or (6) shall constitute a separate violation with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. A violation of section 19(a)(3) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 19(a)—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the product involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraphs.

(b) Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

CRIMINAL PENALTIES

SEC. 21. (a) Any person who knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission shall be fined not more than $50,000 or be imprisoned not more than one year, or both.

(b) Whenever any corporation knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission, any individual director, officer, or agent of such corporation who knowingly and willfully authorized, ordered, or performed any of the acts or practices constituting in whole or in part such violation and who had knowledge of such notice from the Commission shall be subject to penalties under this section in addition to the corporation.

INJUNCTION ENFORCEMENT AND SEIZURE

SEC. 22. (a) The United States district courts shall have jurisdiction to restrain any violation of section 19, or to restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule, or both. Such actions may be brought by the Attorney General, on request of the Commission, in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Any consumer product which fails to conform to an applicable consumer product safety rule when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving identical consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

SUITS FOR DAMAGES BY PERSONS INJURED

SEC. 23. (a)(1) Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety standard, regulation, or order issued by the Commissioner may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, subject to the provisions of section 1331 of title 28, United States Code as to the amount in controversy, and shall recover damages sustained, and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court.

(c) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

PRIVATE ENFORCEMENT OF PRODUCT SAFETY RULES AND OF SECTION 15 ORDERS

SEC. 24. Any interested person may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section, such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing party.

EFFECT ON PRIVATE REMEDIES

SEC. 25. (a) Compliance with consumer product safety rules or other rules or orders under this Act shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c)(1) Subject to section 6(a)(2) but notwithstanding section 6(a)(1), (A) accident and investigation reports made under this Act by any officer, employee, or agent of the Commission shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and (B) any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations.

(2) Subject to sections 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), (A) any accident or investigation report made under this Act by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (B) all reports on research projects, demonstration projects, and other related activities shall be public information.

EFFECT ON STATE STANDARDS

SEC. 26. (a) Whenever a consumer product safety standard under this Act is in effect and applies to a hazard associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same hazard associated with such consumer product; unless such requirements are identical to the requirements of the Federal standard.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a consumer product or its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

(c) Upon application of a State or political subdivision thereof, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose) a proposed safety standard or regulation described in such application, where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce.

ADDITIONAL FUNCTIONS OF COMMISSION

SEC. 27. (a) The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same matter. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Attorney General, in case of refusal to obey a subpena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(e) The Commission may by rule require any manufacturer of consumer products to provide to the Commission such perform-

ance and technical data related to performance and safety as may be required to carry out the purposes of the Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act.

(f) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(g) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(h) The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this Act.

(i) The Commission shall prepare and submit to the President and the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer product safety research activities:

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act:

(7) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission; and

(10) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act.

PRODUCT SAFETY ADVISORY COUNCIL

SEC. 28. (a) The Commission shall establish a Product Safety Advisory Council which it may consult before prescribing a consumer product safety rule or taking other action under this Act. The Council shall be appointed by the Commission and shall be composed of fifteen members, each of whom shall be qualified by training and experience in one or more of the fields applicable to the safety of products within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) five members shall be selected from governmental agencies including Federal, State, and local governments;

(2) five members shall be selected from consumer product industries including at least one representative of small business; and

(3) five members shall be selected from among consumer organizations, community organizations, and recognized consumer leaders.

(b) The Council shall meet at the call of the Commission, but not less often than four times during each calendar year.

(c) The Council may propose consumer product safety rules to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(d) Members of the Council who are not officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

COOPERATION WITH STATES AND WITH OTHER FEDERAL AGENCIES

SEC. 29. (a) The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections.

(b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

(d) The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards, on a reimbursable basis, to perform research and analyses related to consumer product hazards (including fire and flammability hazards), to develop test methods, to conduct studies and investigations, and to provide technical advice and assistance in connection with the functions of the Commission.

TRANSFERS OF FUNCTIONS

SEC. 30. (a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. The functions of the Administrator of the Environmental Protection Agency and of the Secretary of Health, Education, and Welfare under the Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970, to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

(b) The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) A hazard which is associated with consumer products and which could be prevented or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated by the Commission only in accordance with the provisions of those Acts.

(d)(1) All personnel, property, records, obligations, and commitments, which are used primarily with respect to any function transferred under the provisions of subsections (a) and (b) of this section shall be transferred to the Commission. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section.

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transfered by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate

by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(e) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office of officer of such agency or department.

LIMITATION ON JURISDICTION

SEC. 31. The Commission shall have no authority under this Act to regulate hazards associated with consumer products which could be prevented or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970; the Act of August 2, 1956 (70 Stat. 953); the Atomic Energy Act of 1954; or the Clean Air Act. The Commission shall have no authority under this Act to regulate any hazard associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355 (1) and (2) of the Public Health Service Act) if such hazard of such product may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. (a) There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30—

(1) $55,000,000 for the fiscal year ending June 30, 1973;

(2) $59,000,000 for the fiscal year ending June 30, 1974; and

(3) $64,000,000 for the fiscal year ending June 30, 1975.

(b)(1) There are authorized to be appropriated such sums as may be necessary for the planning and construction of research, development and testing facilities described in section 27(h); except that no appropriation shall be made for any such planning or construction involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval the Commission shall transmit to Congress a prospectus of the proposed facility including (but not limited to)—

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Commission, in construction costs, from the date of the transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

EFFECTIVE DATE

SEC. 33. This Act shall take effect on the sixtieth day following the date of its enactment, except—

(1) sections 4 and 32 shall take effect on the date of enactment of this Act, and

(2) section 30 shall take effect on the later of (A) 150 days after the date of enactment of this Act, or (B) the date on which at least three members of the Commission first take office.

The motion was agreed to.

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

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

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

The question was taken; and the Speaker 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. 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 319, nays 50, not voting 61, as follows:

[Roll No. 375]

YEAS—319

Abernethy	Conover	Grover
Abzug	Conte	Gubser
Addabbo	Conyers	Gude
Anderson, Calif.	Corman	Halpern
Anderson, Ill.	Cotter	Hamilton
Anderson, Tenn.	Coughlin	Hanley
Andrews, N. Dak.	Culver	Hanna
Arends	Daniel, Va.	Hansen, Wash.
Ashley	Danielson	Harrington
Aspin	Davis, Ga.	Harsha
Badillo	Davis, S.C.	Harvey
Barrett	Davis, Wis.	Hastings
Begich	de la Garza	Hathaway
Belcher	Delaney	Hawkins
Bennett	Dellenback	Hays
Bergland	Dellums	Hechler, W. Va.
Blaggi	Denholm	Heckler, Mass.
Biester	Dent	Heinz
Bingham	Dickinson	Helstoski
Blatnik	Diggs	Henderson
Boggs	Dingell	Hicks, Mass.
Boland	Donohue	Hicks, Wash.
Bolling	Downing	Hogan
Brademas	Drinan	Holifield
Brasco	Dulski	Horton
Bray	Duncan	Hosmer
Brooks	du Pont	Howard
Broomfield	Eckhardt	Hungate
Brotzman	Edwards, Ala.	Ichord
Brown, Mich.	Edwards, Calif.	Jacobs
Broyhill, N.C.	Eilberg	Jarman
Broyhill, Va.	Erlenborn	Johnson, Calif.
Buchanan	Esch	Jones, Ala.
Burke, Fla.	Eshleman	Jones, N.C.
Burke, Mass.	Evans, Colo.	Jones, Tenn.
Burlison, Mo.	Evins, Tenn.	Karth
Burton	Fascell	Kastenmeier
Byrne, Pa.	Fish	Kazen
Cabell	Flood	Kee
Caffery	Flowers	Keith
Carey, N.Y.	Foley	Kemp
Carlson	Ford, Gerald R.	King
Carney	Ford, William D.	Kluczynski
Carter	Forsythe	Koch
Cederberg	Fountain	Kuykendall
Celler	Fraser	Kyl
Chamberlain	Frelinghuysen	Kyros
Chappell	Frenzel	Landrum
Chisholm	Frey	Latta
Clancy	Fulton	Leggett
Clark	Fuqua	Lent
Clausen, Don H.	Gaydos	Lloyd
Clay	Gettys	Long, La.
Cleveland	Giaimo	Long, Md.
Collier	Gibbons	Lujan
Collins, Ill.	Gonzalez	McCloskey
Conable	Grasso	McClure
	Gray	McCollister
	Green, Oreg.	McCulloch
	Green, Pa.	McEwen
		McFall
		McKay
		McKevitt
		Macdonald, Mass.
		Madden
		Mailliard
		Mallary
		Mann
		Mathias, Calif.
		Matsunaga
		Mayne
		Mazzoli
		Meeds
		Melcher
		Metcalfe
		Miller, Calif.
		Miller, Ohio
		Mills, Ark.
		Mills, Md.
		Minish
		Mink
		Mitchell
		Mizell
		Mollohan
		Monagan
		Montgomery
		Moorhead
		Morgan
		Mosher
		Moss
		Murphy, Ill.
		Myers
		Natcher
		Nedzi
		Nelsen
		Nichols
		Nix
		Obey
		O'Hara
		O'Konski
		O'Neill
		Pelly
		Pepper
		Perkins
		Pettis
		Peyser
		Pike
		Podell
		Powell
		Preyer, N.C.
		Price, Ill.
		Pryor, Ark.
		Quie
		Quillen
		Railsback
		Randall
		Rangel
		Rees
		Reuss
		Rhodes
		Riegle
		Robinson, Va.
		Robison, N.Y.
		Rodino
		Roe
		Rogers
		Rooney, Pa.
		Rosenthal
		Rostenkowski
		Roush
		Roy
		Roybal
		Runnels
		Ruppe
		Ruth
		Sandman
		Sarbanes
		Satterfield
		Scheuer
		Schneebeli
		Schwengel
		Seiberling
		Shipley
		Shoup
		Shriver
		Sikes
		Sisk
		Slack
		Smith, Iowa
		Smith, N.Y.
		Snyder
		Spence
		Springer
		Staggers
		Stanton, J. William
		Stanton, James V.
		Steed
		Steele
		Steiger, Wis.
		Stephens
		Stokes
		Stubblefield
		Stuckey
		Sullivan
		Symington
		Talcott
		Taylor
		Teague, Calif.
		Thompson, Ga.
		Thomson, Wis.
		Thone
		Tiernan
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Veysey
		Vigorito
		Wampler
		Ware
		Whalen
		Whalley
		White
		Whitehurst
		Widnall
		Wiggins
		Williams
		Wilson, Bob
		Wilson, Charles H.
		Winn
		Wolff
		Wright
		Wyatt
		Wylie
		Wyman
		Yates
		Yatron
		Young, Fla.
		Young, Tex.
		Zablocki
		Zion
		Zwach

NAYS—50

Abbitt	Dennis	Mathis, Ga.
Alexander	Dorn	Passman
Andrews, Ala.	Fisher	Patman
Archer	Goodling	Poage
Ashbrook	Griffin	Price, Tex.
Baker	Gross	Purcell
Blackburn	Hagan	Rarick
Bow	Haley	Roberts
Brinkley	Hall	Roncalio
Burleson, Tex.	Hammer-schmidt	Rousselot
Byron	Hull	Scherle
Camp	Hutchinson	Sebelius
Casey, Tex.	Jonas	Smith, Calif.
Clawson, Del	Lennon	Teague, Tex.
Collins, Tex.	Mahon	Terry
Colmer	Martin	Waggonner
Crane		Whitten

NOT VOTING—61

Abourezk	Galifianakis	Mikva
Adams	Gallagher	Minshall
Annunzio	Garmatz	Murphy, N.Y.
Aspinall	Goldwater	Patten
Baring	Griffiths	Pickle
Bell	Hansen, Idaho	Pirnie
Betts	Hébert	Pucinski
Bevill	Hillis	Reid
Blanton	Hunt	Rooney, N.Y.
Brown, Ohio	Johnson, Pa.	St Germain
Byrnes, Wis.	Keating	Saylor
Curlin	Landgrebe	Schmitz
Daniels, N.J.	Link	Scott
Derwinski	McClory	Skubitz
Devine	McCormack	Steiger, Ariz.
Dow	McDade	Stratton
Dowdy	McDonald, Mich.	Thompson, N.J.
Dwyer	McKinney	Udall
Edmondson	McMillan	Waldie
Findley	Michel	Wydler
Flynt		

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hunt for, with Mr. Brown of Ohio against.

Until further notice:

Mr. Rooney of New York with Mr. Saylor.

Mr. Hébert with Mr. Devine.

Mr. Thompson of New York with Mr. Minshall.

Mr. Stratton with Mr. Wydler.
Mr. Patten with Mrs. Dwyer.
Mrs. Griffiths with Mr. McKinney.
Mr. Daniels of New Jersey with Mr. McClory.
Mr. Annunzio with Mr. Findley.
Mr. St Germain with Mr. Pirnie.
Mr. Curlin with Mr. Byrnes of Wisconsin.
Mr. McCormack with Mr. Derwinski.
Mr. Pickle with Mr. Steiger of Arizona.
Mr. Waldie with Mr. Bell.
Mr. McMillan with Mr. Betts.
Mr. Mikva with Mr. Michel.
Mr. Reid with Mr. McDonald of Michigan.
Mr. Murphy of New York with Mr. McDade.
Mr. Link with Mr. Johnson of Pennsylvania.
Mr. Flynt with Mr. Hillis.
Mr. Garmatz with Mr. Keating.
Mr. Galifianakis with Mr. Landgrebe.
Mr. Bevill with Mr. Skubitz.
Mr. Edmondson with Mr. Goldwater.
Mr. Aspinall with Mr. Hansen of Idaho.
Mr. Baring with Mr. Schmitz.
Mr. Pucinski with Mr. Scott.
Mr. Udall with Mr. Blanton.
Mr. Abourezk with Mr. Gallagher.
Mr. Dow with Mr. Adams.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15003) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the bill just passed.

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

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 976, MOTOR VEHICLES INFORMATION AND COST SAVINGS ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint two additional conferees on the part of the House at the conference with the Senate on the bill S. 976 to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. ECKHARDT and WARE.

The Clerk will notify the Senate of the action of the House.

CHANGE OF LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time to announce that the motion to send to conference H.R. 7130, the Fair Labor Standards Act amendments, will be taken up the first thing tomorrow and not at the end of the day as previously announced.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8389. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities;

H.R. 9756. An act to amend the Merchant Marine Act, 1936, as amended; and

H.R. 15927. An act to amend the Railroad Retirement Act of 1937 to provide a temporary 20-percent increase in annuities, and for other purposes.

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 amendment of the Senate to the bill (H.R. 4383) entitled "An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, 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. 750. An act to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes;

S. 1144. An act to authorize and direct the acquisition of certain lands within the boundaries of the Wasatch National Forest in the State of Utah by the Secretary of Agriculture;

S. 1911. An act to amend the Interstate Commerce Act to expedite the making of amendments to the uniform standards for evidencing the lawfulness of interstate operations of motor carriers;

S. 2501. An act for the relief of Daniel H. Robbins;

S. 2762. An act to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the boundaries of the Cache National Forest in the State of Utah;

S. 3113. An act to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono, County, Calif.;

S. 3256. An act to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex.;

S. 3452. An act to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees;

S. 3466. An act to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Lone Peak Area in the State of Utah; and

S. 3483. An act for the relief of Cass County, N. Dak.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 984, U.S. PARTICIPATION IN THE INTERNATIONAL BUREAU FOR THE PROTECTION OF INDUSTRIAL PROPERTY

Mr. FRASER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 984) to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota? The Chair hears none, and appoints the following conferees: Messrs. FRASER, FASCELL, and GROSS.

EXPANDED PROTECTION OF FOREIGN OFFICIALS

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15883), to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, after "Officials" insert: "and Official guests of the United States".

Page 2, line 3, after "States" insert: "or against official guests of the United States".

Page 2, line 10, after "OFFICIALS" insert: "AND OFFICIAL GUESTS".

Page 2, line 14, after "officials" insert: "or official guests".

Page 2, line 15, after "official" insert: "or official guest".

Page 3, after line 23, insert:

"(4) 'Official guest' means a citizen or national of a foreign country present in the United States as an official guest of the government of the United States pursuant to designation as such by the Secretary of State."

Page 4, strike out the first line following line 7 and insert:

"1116. Murder or manslaughter of foreign officials or official guests.

Page 5, line 2, after "1116(b)" insert: "or an official guest as defined in section 1116 (c) (4)".

Page 5, line 19, after "OFFICIALS" insert: "AND OFFICIAL GUESTS".

Page 5, line 22, after "officials" insert: "and official guests".

Page 6, line 1, after "official" insert: "or official guest".

Page 6, strike out lines 6 to 9, inclusive, and insert:

"(b) Whoever willfully intimidates, coerces, threatens, harasses, or willfuly obstructs a foreign official or an official guest shall be fined not more than $500, or imprisoned not more than six months, or both."

Page 7, line 4, strike out "and".

Page 7, line 4, after "organization'" insert: ", and 'official guest'".

Page 7, after line 6, insert:

"(e) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States."

Page 7, strike out the line following line 9 and insert:

"112. Protection of foreign officials and official guests."

Page 7, line 22, strike out "or".

Page 7, line 22, after "official" insert: "or official guest".

Page 8, line 4, strike out "and".

Page 8, line 4, after "organization'" insert: ", and 'official guest'".

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

Mr. HALL. Mr. Speaker, reserving the right to object, as I understand this, the request is concurred in only by the ranking members of the Committee on the Judiciary and the subcommittee concerned. I also understand that it is urgent. Of course, this is a unanimous-consent request to concur in the Senate amendments. If it has not received full committee action, of course, it might well be subject to a point of order.

Mr. Speaker, in addition to this, the gentleman who makes the unanimous consent request has been courteous enough to confer, and his staff has provided information at his request concerning the Senate amendment that would add the term "official guests" to be designated by the Secretary of State to the coverage, so that it would be a Federal crime to murder, kidnap, assault, harass, or injure the property of any such official guest.

Mr. Speaker, quite outside of the question of procedure, I cannot help but wonder how many additional Federal police or marshals would be required at the time, for example, of a visit by a head of state designated as an official guest; whether there is any arrangement for after-the-fact designation of an official guest; and whether indeed it would not require that the Federal taxpayer out-of-pocket pay all of the expenses for protection of "official guests" to the United Nations.

Finally, certainly I believe it is fair to assume on the basis of what we have studied here today that it would result in innumerable requests from interested third parties, such as we of the Congress, for example, for our friends who might be journeying here from overseas to be designated as "official guests."

For all of these reasons I am constrained to object to this procedure, which is not in order; and, Mr. Speaker, I do object.

The SPEAKER. Objection is heard.

AMENDING RAILROAD RETIREMENT ACT OF 1937

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20-percent increase in annuities, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That (a) section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

"(5) The individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 20 per centum.".

(b) Section 2(e) of such Act is amended—

(1) by striking out "section 3(a) (3) or (4) of this Act" and inserting in lieu thereof "section 3(a) (3), (4), or (5) of this Act":

(2) by striking out the second sentence of the last paragraph; and

(3) by adding at the end thereof the following new paragraph:

"The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 20 per centum. The preceding sentence and the other provisions of this subsection shall not operate to increase the sponse's annuity (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding two paragraphs."

(c) Section 2(i) of such Act is amended by striking out "the last two paragraphs" and inserting in lieu thereof "the last paragraph plus the two preceding paragraphs".

(d) Section 3(e) of such Act is amended—

(1) by striking out the word "and" after clause (iv) in the second paragraph thereof and inserting after the semicolon in clause (v) in such second paragraph the following new clauses:

"(vi) individuals not entitled to an annuity under section 2 or 5 of this Act shall not be included in the computation under such first proviso except a spouse who could qualify for an annuity under section 2 (e) or (h) of this Act if the employee from whom the spouse's annuity under this Act would derive had attained age sixty-five, and such employee's children who meet the definition as such contained in section 216(e) of the Social Security Act; (vii) after an annuity has been certified for payment and such first proviso was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under such first proviso, or was then applicable but later became inapplicable, any recertification in such annuity under such first proviso shall not take into account individuals not entitled to an annuity under section 2 or 5 of this Act except a spouse who could qualify for an annuity under section 2(h) of this Act when she attains age sixty-two if the employee from whom the spouse's annuity would derive had attained age sixty-five, and who was married to such employee at the time he applied for the employee annuity; (viii) in computing the amount to be paid under such first proviso, the only benefits under title II of the Social Security Act which shall be considered shall be those to which the individuals included in the computation are entitled; (ix) the average monthly wage for an employee during his lifetime shall include (A) only his wages and self-employment income creditable under the Social Security Act through the later of December 31, 1971, or December 31 of the year preceding the year in which his annuity began to accrue, and (B) his compensation up to the date his annuity began to accrue; and (x) in computing the average monthly wage in clause (ix) above, section 215(b)(2)(C)(ii) of the Social Security Act shall, solely for the purpose of including compensation up to the date the employee's annuity began to accrue, be deemed to read as follows: 'the year succeeding the year in which he died or retired'"; and

(2) by striking out in the third paragraph thereof ", or on application, would be".

(e) Section 5(1)(1) of such Act is amended by striking out from the first sentence thereof "and (g)" and inserting in lieu thereof "(g), and (k)".

(f) Section 5 of such Act is further amended by inserting at the end thereof the following new subsection:

"(p) A survivor's annuity computed under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b)) shall (before any reduction on account of age) be increased by 20 per centum."

SEC. 2. (a) All pensions under section 6 of the Railroad Retirement Act of 1937, all annuities under the Railroad Retirement Act of 1935, and all survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 shall be increased by 20 per centum.

(b) All such widows' and widowers' insurance annuities which are payable in the amount of the spouse's annuity to which the widow or widower was entitled, shall, in cases where the employee died prior to October 1, 1972, be increased by 20 per centum.

(c) All such joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act of 1937 and shall be reduced by the percentage determined in accordance with the election of such annuity.

SEC. 3. All recertifications required by reason of the amendments made by this Act shall be made by the Railroad Retirement Board without application therefor.

SEC. 3. For the purposes of approximating the offsets in railroad retirement benefits for increases in social security benefits by reason of amendments prior to the Social Security Amendments of 1971, the Railroad Retirement Board is authorized to prescribe adjustments in the percentages in the Railroad Retirement Act of 1937 and laws pretaining thereto in order that these percentages, when applied against current social security benefits not in excess of the primary insurance amount applicable for an everage monthly wage of $650, will produce approximately the same amounts as those computed under the law in effect, except for changes in the wage base, before the Social Security Amendments of 1971 were enacted.

SEC. 5. (a) The amendments made by this Act, except for subsections (d) and (e) of section 1, shall be effective with respect to annuities accruing for months after August 1972 and with respect to pensions due in calendar months after September 1972. The provisions of clauses (vi) through (x), which are added by section 1(d)(1) of this Act, and the provisions of section 1(d)(2) of this Act, shall be effective as follows: clause (vi) shall be effective with respect to annuities awarded after the enactment of this Act; clauses (vii) and (viii), and the provisions

of section (1)(d)(2), shall be effective with respect to annuities awarded or recertified after the enactment of this Act; and clauses (ix) and (x) shall be effective with respect to calendar years after 1971.

(b) The first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, shall cease to apply as of the close of June 30, 1973. Annuities accruing for months after June 30, 1973, and pensions due in calendar months after June 30, 1973, shall be computed as if the first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, had not been enacted.

SEC. 6. It is the policy of the Congress of the United States that the 20-percent increase in annuities of Railroad Retirement beneficiaries provided by this Act, as well as the 10-percent and 15-percent increases provided by Public Law 92-46 and Public Law 91-377, respectively, all of which will expire by the terms of such Acts on June 30, 1973, can be made permanent only if at the same time a method is adopted to insure the receipt of sufficient revenues by the Railroad Retirement Account to make such Account financially solvent based on sound actuarial projections. Accordingly, representatives of employees and retirees and representatives of carriers shall, no later than March 1, 1973, submit to the Senate Committee on Labor and Public Welfare and the House of Representatives Committee on Interstate and Foreign Commerce a report containing the mutual recommendations of such representatives based upon their negotiations and taking into account the report and specific recommendations of the Commission on Railroad Retirement designed to insure such solvency. A copy of the report of such representatives shall also be submitted to the Railroad Retirement Board, which, no later than April 1, 1973, shall submit to such committees of the Congress a report containing its views and specific recommendations, and those of the administration, with reference to the report submitted by such representatives.

Amend the title so as to read: "An Act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the Act, and for other purposes.".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

Mr. FREY. Mr. Speaker, reserving the right to object—and I shall not object—will the gentleman explain the purpose of the amendment?

Mr. STAGGERS. Mr. Speaker, this is essentially a House bill with a Senate amendment to it. The Senate put in an amendment that industry and labor recommended to make the bill more sound.

Mr. FREY. That is the only change?

Mr. STAGGERS. That is the only change.

Mr. FREY. Mr. Speaker, I understand. I withdraw my reservation of objection.

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

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4383, EXECUTIVE BRANCH ADVISORY COMMITTEE

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent to consider the conference report on the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, 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 Connecticut?

Mr. HALL. Mr. Speaker, reserving the right to object, I would inquire of the gentleman if this involves any violation of the 3-day House rule?

Mr. MONAGAN. That is correct.

Mr. HALL. I thank the gentleman for his forthright reply.

Mr. Speaker, I am strongly in favor of the advisory committee's limitations in this bill. Therefore, I will not object to the violation of the Reorganization Act of 1970 and the clause in the rule pertaining to the 3-day printing and availability for Members prior to consideration in this particular instance; but it is not to become a precedent, nor is it to be considered a procedure, unless we change the Reorganization Act of 1970.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 18, 1972.)

Mr. MONAGAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

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

There was no objection.

Mr. MONAGAN. Mr. Speaker, I do want to begin by thanking the gentleman from Missouri for his consideration in this matter, and to assure him that the request is simply for the purpose of expediting the business of the House and moving along this legislation, which is, I think, extremely important in bringing about a vast improvement in the operation of our Government.

There was really no objection to the legislation in the committee, and it passed this House with, I think, only 8 votes against it. All the members of the conference committee signed the report.

Mr. Speaker, I am reporting to the House on the outcome of the successful conference with the other body on H.R. 4383. This bill passed the House on May 9, 1972, and passed the Senate on September 12, 1972.

Members will recall that the bill H.R. 4383 was designed to lay down ground rules for the operation of the estimated 3,200 advisory committees in the Federal Government. These committees with their membership of 20,000 persons and annual cost of approximately $75 million have grown to justify their description as a "fifth arm of the Government."

The Senate struck all after the enacting clause of the House bill and substituted a Senate amendment. The conference substitute contains all the essential elements of the House bill.

The committee of conference agreed with the Senate amendment to change the title of the bill to the "Federal Advisory Committee Act."

The conference substitute adopts the definition of "advisory committee" contained in the House bill with some modification. The conference substitute definition includes committees which are established or utilized by the President or one or more agencies or officers of the Federal Government. It excludes from the definition of "advisory committee," in addition to the Advisory Commission on Intergovernmental Relations, the Commission on Government Procurement, and any committee which is composed wholly of full-time officers or employees of the Government.

The conference substitute exempts from the provisions of the bill any advisory committee established or utilized by the Central Intelligence Agency or by the Federal Reserve Board.

The conference substitute adopts the provision of the House bill which requires the President or any agency head who creates an advisory committee to follow the guidelines laid down for standing committees of Congress when they are considering legislation establishing advisory committees.

The conference substitute adopts a compromise between the Senate amendment and the House bill regarding the responsibilities of the President with respect to public recommendations of Presidential advisory committees. The conference substitute provides that the President "may" delegate responsibility for evaluating and taking action with respect to public recommendations of Presidential advisory committees. It further provides that the President or his delegate "shall" submit a report to the Congress stating his proposals for action or his reasons for inaction with respect to such public recommendations.

The conference substitute adopts the provision of the House bill requiring the President to make an annual report to the Congress on the number, membership, and cost of advisory committees in the executive branch. The President may exclude from such report information which, in his judgment, should be withheld for reasons of national security.

The conference substitute contains a provision requiring the Director of OMB to include in his budget recommendations a summary of the amounts necessary for the expenses of advisory committees, which is similar to a provision contained in the Senate amendment.

The committee of conference also agreed to provisions similar to those contained in the Senate amendment—setting forth the procedure to be followed when advisory committees are es-

tablished—and requiring the designation of a committee management office in each agency having advisory committees.

The conference substitute provides for publication in the Federal Register of timely notice of advisory committee meetings, except where the President determines otherwise for reasons of national security. The conference substitute further provides for public access to advisory committee meetings subject to restrictions which may be imposed by the President or the head of any agency to which an advisory committee reports. Such restrictions may be imposed after it is determined that an advisory committee meeting is concerned with matters listed in section 552(b) of title V, United States Code. The conference substitute also provides that subject to section 552 of title V, United States Code, the records and other papers of advisory committees shall be available for public inspection and copying.

The conference substitute requires that a designated officer or employee of the Government attend each advisory committee meeting. No such meeting may be conducted in his absence or without his approval. Except in the case of Presidential advisory committees, the agenda of such meeting must be approved by him.

The committee of conference agreed to the adoption in the conference substitute of a provision similar to the provision contained in the Senate amendment that required agencies or advisory committees to make any transcripts of their proceedings or meetings available to the public at actual cost of duplication.

The conference substitute provides for the termination of any advisory committee within 2 years after the effective date of the act or the date of its creation, whichever is later, unless it is renewed by the creating authority or its duration is otherwise provided for by law.

All the outstanding differences with the Senate have been resolved by the committee of conference. This bill is the culmination of considerable work both here and in the other body. In the House the measure has had strong bipartisan support. In the other body the measure has progressed under the able leadership of Senators METCALF, ROTH, and PERCY.

I strongly urge that the conference report be accepted by the House.

Mr. BROWN of Michigan. Mr. Speaker, as a conferee on this bill, I am satisfied the conference report is an eminently fair compromise between the Senate and House-passed versions of the legislation and I believe it provides a viable system for the establishment and administration of advisory committees in the executive branch of the Federal Government. I can assure the House that the intent and purpose of the House bill were retained in the conference report. Moreover, I believe it is consistent with the objectives of the administration as set forth in the new Executive Order 11671 which are incorporated in part in the conference report.

The chairman has well described the major areas of compromise and I will not take the time of the House to reiterate his statements. However, I would like to emphasize that the conference report advances the public's right to know in this vitally important area. It provides for public access to advisory committee meetings not subject to special restrictions and provides for the availability of the records and other papers of advisory committees subject to the provisions of the Freedom of Information Act.

Other than that, as the chairman has indicated, the bill would provide much-needed guidelines for the creation, review, and reporting of advisory committees and relieve the confusion and disorganization which now exist.

I recommend the adoption of the conference report.

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

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

Mr. HORTON. Mr. Speaker, I shall be very brief. I do want to commend the gentleman from Connecticut and the gentleman from Michigan and other members of the subcommittee for the work that they did in putting this legislation together and following it through in the conference report, and the commendable job they have done.

I think this is a very important step forward. I would like to ask the chairman of the committee, Mr. HOLIFIELD, a question.

Mr. MONAGAN. I yield to the gentleman from California (Mr. HOLIFIELD).

Mr. HORTON. Am I correct in the understanding that this bill does not apply to such organizations as the National Academy of Sciences and its various committees which make studies and submit reports to Federal agencies on request?

Mr. HOLIFIELD. The gentleman is quite correct. If he will refer to the joint explanatory statement of the committee of conference at page 10, the first full paragraph, it states as follows:

> The Act does not apply to persons or organizations which have contractual relationships with Federal agencies nor to advisory committees not directly established by or for such agencies.

As the gentleman knows, the National Academy of Sciences was founded by Congress and, therefore, it comes under that category.

Mr. HORTON. So, it would be excluded?

Mr. HOLIFIELD. That is correct.

Mr. HORTON. I thank the gentleman.

Mr. HOLIFIELD. Mr. Speaker, I just want to say that the findings of the subcommittee revealed that there are in the neighborhood of some 3,200 of these advisory committees. We had quite a bit of trouble finding out how many there were, and we are not sure that 3,200 covers it altogether. One agency reported 383 advisory committees, and later revised it to 420, and their latest revision is 511 agency advisory committees. Their latest revision is 511 interagency advisory committees. They are all over the map. Many of them ought to be abolished.

This bill, I believe, will go a long way toward getting a proper inventory of these advisory committees. Our committee will follow up on this and see that the obsolete ones or those which contradict each other are abolished.

I believe this is a move toward economy and efficiency. I want to thank the gentleman from Michigan (Mr. BROWN), the ranking minority member of the subcommittee, and the gentleman from Connecticut (Mr. MONAGAN), the chairman, for the good work they and the other members of the committee have done. I believe this is a step in the right direction, toward economy and efficiency.

Mr. MONAGAN. I thank the gentleman for his remarks.

I also thank the gentleman from New York (Mr. HORTON) for his generous statement, and the gentleman from Michigan (Mr. BROWN) for his cooperation at all stages of this legislation, which truly is a bipartisan product. That is true here in this body and also in the other body.

Mr. Speaker, I ask support of the Members for this conference report.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just agreed to.

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

There was no objection.

MAKING IN ORDER CONSIDERATION OF H.R. 16705, FOREIGN ASSISTANCE APPROPRIATIONS, 1973

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1122 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1122

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 6 of Rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16705) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes, and all points of order against said bill are hereby waived.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, this is an unusual rule. We in the Rules Committee have granted very few general waivers of points of order on bills in recent times. We have tried to specify what all the waivers were in detail.

On this bill there are so many points of order we are waiving that it would almost be a futility to try to list them. Almost everything in the appropriation bill is subject to a point of order for one reason or another, and the whole thing is subject to a point of order on the 3-day rule.

So I made the motion to waive all points of order, for the obvious reason that if we did not waive them all we would have a rule which might be longer than the bill.

The only justification for this—and I believe it is a very important justification—is that the provisions of the bill on which we have to have waivers include military assistance, aid to Bangladesh, and all kinds of things that have passed the House in a bill reported out by the Committee on Foreign Affairs and sent to the Senate, on which there has been no action.

The Senate in a very unusual procedure took up a bill. Then, in a most unusual of situations, people who for years have been for foreign aid and people who have become opponents of foreign aid defeated the bill. People who were strong supporters of the bill voted against it because of the provisions it contained with regard to ending the war in Vietnam.

Now, hopefully the Congress is moving toward a sine die adjournment. If there is to be a sine die adjournment this side of November or December, foreign aid is one of the things that is going to have to be acted on.

Now, the only alternative to acting on it in this fashion is to act on it with a continuing resolution, and I personally feel, as I believe most of the Members of the House feel, it would be better if we bit the bullet and tried to face the issue than passed legislation that did not acknowledge our inability to function as a total institution, as the Congress of the United States.

That is the justification for using this very unusual procedure to deal with this matter and send it to the other body so that once more the ball in a sense is in the other body's court.

Now, the reason for bringing it up today, in my judgment, is short of range, but still important. We are far enough along in the year so that there are a lot of people who have engagements of some importance to them in other places than in Washington, and the bringing up of the rule today—and we are just going to consider the rule—is so it will be more probable that the business of the week may be finished tomorrow. And with no apologies, I say this: This is a most unusual rule, a rule by which we waive points of order against everything under the sun, but this is the only way we can pursue the business of the House in a reasonably orderly fashion.

Mr. GROSS. Will the gentleman yield?

Mr. HALL. Will the gentleman yield?

Mr. BOLLING. I will be delighted to yield to either or both of my friends, the gentleman from Missouri, or the gentleman from Iowa.

Mr. GROSS. I cannot thank the gentleman from Missouri enough for yielding to me on this occasion.

To make a long story short, this is a most unusual rule on what always has been and still is a most unusual bill. This bill, if appropriated for in full, will mean that the taxpayers will cough up approximately another $2.7 billion to be dished out to foreigners who are already waiting with their tin cups ready around the world.

And so we are again confronted with what we usually are about this time of the year—an unusual rule making in order a bill to give away $2 to $3 billion of the American taxpayers' money to the spongers around the world. It is about that simple.

Would the gentleman from Missouri agree with me, at least in part?

Mr. BOLLING. I will agree with him on the fact it is unusual, and I will agree with him on the fact no one has been more consistent in his opposition to this kind of expenditure than the gentleman from Iowa has.

The only thing I would say in defense of the process, which I supported and do now support, is that a long line of Presidents, both Republican and Democratic, have felt very strongly about this subject, and a long line of Congresses with considerable pain have usually discovered a majority in support of these propositions, sometimes, I guess fairly regularly over the last 8 or 10 years, at a reduced level from the bill before us. I cannot even say that about this one, because I understand there will be a little bit more money spent this time than the last time if it is passed.

Mr. GROSS. Will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Iowa.

Mr. GROSS. And on behalf of those who have been voting for this annual multibillion-dollar foreign giveaway business through the years, I want to extend my sympathy to the taxpayers.

Mr. HALL. Will the gentleman yield?

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

Mr. HALL. I appreciate my nonapologetic colleague from Missouri yielding about his most apologetic remarks.

I just wonder if he would not join with me in the conclusion that an even quicker way to adjourn sine die would be to join with the other body and give this thing the decent burial that it deserves by voting down the rule waiving all points of order and changing again, as we just did on the previous consideration, the Reorganization Act of 1970 which the gentleman was so eminent in helping prepare.

Mr. BOLLING. I thank the gentleman for the last sentence, recognizing my interest in reorganization.

With regard to the rest of the statement, the only comment I can make would be that if we did not proceed in this fashion to a satisfactory conclusion and if we did not have the continuing resolution which kept this program going, I do not believe that this Congress could successfully adjourn permanently for this year. I say that because I am convinced the failure to have any foreign aid program would result in the President feeling that he had to call us back after the election if not earlier.

So I agree with the thrust of the gentleman's statement from his point of view, but I must say I do believe we must act on the matter, and this I believe is the more responsible way to act than by continuing resolution, to which we may come in the final analysis.

Mr. HALL. The question of responsibility is a matter of speculation for individual Members. Waiving all points of order takes away the elected individual Member's rights against nongermane bills or against appropriating committee reports that have not been authorized by the legislative committee, and it does damage, I think my distinguished friend will agree with me, to the orderly legislative process. Perhaps it is just as well to let this ball bounce in the court of the executive branch and put the onus on them for calling us back into session if this is all that important.

But be that as it may, I strongly hope that we would do even greater damage to this foreign aid giveaway. I yield to no one, even my friend from Iowa, in consistency in having voted against this at every opportunity I have had since I have been here, as I have voted against increaed debt ceilings and as I have voted against and will vote against a continuing resolution.

For the gentleman's information, I have already been approached today about this continuing resolution coming up next week and about extending the time beyond the middle of October. If this House does not want to dangle on the tenuous strings of the other body or the executive branch and assert its will as the representatives of the people, then I think it is time that we caught their attention by striking them between the eyes with a singletree, if necessary, in order to focus the attention of the American people on what is going on with their moneys.

Mr. GROSS. Will the gentleman again yield to me?

Mr. BOLLING. I am glad to yield to the gentleman.

Mr. GROSS. I cannot resist replying to my good friend from Missouri and his statement that he does not yield to me in his consistent opposition to the foreign handout programs. Let me say to him that I have about 24 years of voting against it and he still needs about 12 years to catch up.

Mr. HALL. Like the gentleman says, without qualms he can write songs.

Mr. BOLLING. I think I can say that any fair-minded observer can state that the gentleman from Iowa and the gentleman from Missouri are tied in their opposition.

Mr. LONG of Maryland. Will the gentleman yield to me?

Mr. BOLLING. I yield to the gentleman.

Mr. LONG of Maryland. I think the gentleman from Missouri is really a master of understatement when he said this bill was a little bit higher. It strikes me that you do not have to be against foreign aid to be worried about this bill, because it is $1 billion higher than last year. We have gone back over the last 16 years, and as far as we can find out, it is the highest foreign aid bill we have

in all the 16 years that I was able to get the history on.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I find myself in between the gentleman from Iowa and the gentleman from Missouri, because I think I have only had 16 years that I have had the opportunity of being here, so I will never catch up with the gentleman from Iowa, because I am leaving at the end of this term. I am still opposed to foreign aid and will still vote against the bill.

But, Mr. Speaker, there is no other way that we can get this bill before this House but to do what the Committee on Rules did. I support the rule, and I think the gentleman from Missouri, in his always extremely able manner, has explained what we did entirely correctly.

Together with the comments of my two associates on this side of the aisle, I think everybody should know what we are doing, and I believe they do.

Accordingly, Mr. Speaker, I urge the adoption of the rule.

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

The previous question was ordered.

The SPEAKER. The question is on the resolution.

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

Mr. HALL. 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. 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 240, nays 98, not voting 92, as follows:

[Roll No. 376]

YEAS—240

Abzug	Chamberlain	Ford,
Addabbo	Chisholm	William D.
Alexander	Clark	Fountain
Anderson, Ill.	Clausen,	Fraser
Anderson,	Don H.	Frelinghuysen
Tenn.	Cleveland	Frenzel
Andrews,	Collins, Ill.	Frey
N. Dak.	Colmer	Fulton
Arends	Conable	Fuqua
Ashley	Conover	Gaydos
Aspin	Conte	Gonzalez
Badillo	Conyers	Goodling
Bennett	Corman	Grasso
Bergland	Cotter	Gray
Biaggi	Coughlin	Green, Oreg.
Biester	Culver	Gubser
Bingham	Daniel, Va.	Gude
Blackburn	Danielson	Halpern
Blatnik	Davis, Wis.	Hamilton
Bolling	de la Garza	Hanley
Bow	Dellenback	Hansen, Wash.
Brademas	Dellums	Harrington
Brasco	Dennis	Harsha
Bray	Dent	Harvey
Brooks	Dickinson	Hastings
Brotzman	Dingell	Hathaway
Brown, Mich.	Donohue	Hawkins
Broyhill, Va.	Downing	Hays
Buchanan	Drinan	Heinz
Burke, Mass.	du Pont	Helstoski
Burleson, Tex.	Edwards, Ala.	Hicks, Mass.
Burlison, Mo.	Eilberg	Hicks, Wash.
Burton	Erlenborn	Hogan
Byrne, Pa.	Esch	Holifield
Cabell	Evans, Colo.	Horton
Carey, N.Y.	Fascell	Hosmer
Carlson	Fish	Howard
Carney	Flood	Johnson, Calif.
Carter	Foley	Jones, Ala.
Casey, Tex.	Ford, Gerald R.	Karth
Cederberg		Kazen
Kee	Mosher	Sikes
Keith	Murphy, Ill.	Sisk
Kemp	Myers	Slack
King	Natcher	Smith, Calif.
Kluczynski	Nedzi	Smith, Iowa
Koch	Nelsen	Smith, N.Y.
Kuykendall	Obey	Staggers
Kyl	O'Hara	Stanton,
Kyros	O'Neill	J. William
Leggett	Passman	Stanton,
Lent	Pelly	James V.
Lloyd	Pepper	Steele
Long, Md.	Perkins	Stratton
McCloskey	Pettis	Stubblefield
McCollister	Peyser	Sullivan
McEwen	Podell	Symington
McFall	Preyer, N.C.	Taylor
McKay	Price, Ill.	Teague, Calif.
McKevitt	Purcell	Terry
Macdonald,	Quie	Thone
Mass.	Railsback	Tiernan
Madden	Randall	Ullman
Mahon	Rangel	Vander Jagt
Mailliard	Rees	Vanik
Mallary	Reuss	Vigorito
Mann	Rhodes	Wampler
Mathias, Calif.	Riegle	Ware
Matsunaga	Robinson, Va.	Whalen
Mayne	Robison, N.Y.	Whalley
Mazzoli	Rodino	Whitehurst
Meeds	Roe	Whitten
Melcher	Rooney, Pa.	Williams
Metcalfe	Rosenthal	Wilson, Bob
Mills, Ark.	Rostenkowski	Winn
Mills, Md.	Roybal	Wolff
Minish	Ruppe	Wright
Mink	Sarbanes	Yates
Mollohan	Scheuer	Yatron
Monagan	Schwengel	Young, Tex.
Montgomery	Sebelius	Zablocki
Moorhead	Seiberling	Zion
Morgan	Shriver	

NAYS—98

Abbitt	Hagan	Roberts
Anderson,	Haley	Rogers
Calif.	Hall	Roncalio
Andrews, Ala.	Hammer-	Roush
Archer	schmidt	Rousselot
Ashbrook	Hechler, W. Va.	Roy
Baker	Henderson	Runnels
Begich	Hull	Ruth
Brinkley	Hungate	Sandman
Broyhill, N.C.	Hutchinson	Satterfield
Burke, Fla.	Ichord	Scherle
Byron	Jacobs	Shipley
Caffery	Jarman	Shoup
Camp	Jones, N.C.	Snyder
Chappell	Jones, Tenn.	Spence
Clancy	Kastenmeier	Steed
Clawson, Del	Landgrebe	Steiger, Wis.
Collier	Landrum	Stephens
Collins, Tex.	Latta	Stuckey
Crane	Long, La.	Talcott
Davis, Ga.	Lujan	Thompson, Ga.
Davis, S.C.	McClure	Thomson, Wis
Denholm	Martin	Van Deerlin
Dorn	Mathis, Ga.	Veysey
Duncan	Miller, Ohio	Waggonner
Edwards, Calif.	Mizell	White
Eshleman	Moss	Wilson,
Fisher	O'Konski	Charles H.
Flowers	Pike	Wyatt
Gettys	Poage	Wylie
Gibbons	Powell	Wyman
Griffin	Price, Tex.	Young, Fla.
Gross	Quillen	Zwach
Grover	Rarick	

NOT VOTING—92

Abernethy	Dowdy	Link
Abourezk	Dulski	McClory
Adams	Dwyer	McCormack
Annunzio	Eckhardt	McCulloch
Aspinall	Edmondson	McDade
Baring	Evins, Tenn.	McDonald,
Barrett	Findley	Mich.
Belcher	Flynt	McKinney
Bell	Forsythe	McMillan
Betts	Galifianakis	Michel
Bevill	Gallagher	Mikva
Blanton	Garmatz	Miller, Calif.
Boggs	Giaimo	Minshall
Boland	Goldwater	Mitchell
Broomfield	Green, Pa.	Murphy, N.Y.
Brown, Ohio	Griffiths	Nichols
Byrnes, Wis.	Hanna	Nix
Celler	Hansen, Idaho	Patman
Clay	Hébert	Patten
Curlin	Heckler, Mass.	Pickle
Daniels, N.J.	Hillis	Pirnie
Delaney	Hunt	Pryor, Ark.
Derwinski	Johnson, Pa.	Pucinski
Devine	Jonas	Reid
Diggs	Keating	Rooney, N.Y.
Dow	Lennon	St Germain
Saylor	Springer	Waldie
Schmitz	Steiger, Ariz.	Widnall
Schneebeli	Stokes	Wiggins
Scott	Teague, Tex.	Wydler
Skubitz	Thompson, N.J.	
	Udall	

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Boggs with Mr. Devine.
Mr. Hébert with Mr. Saylor.
Mr. Rooney of New York with Mr. Wydler.
Mr. Annunzio with Mr. Michel.
Mr. Celler with Mr. Forsythe.
Mr. Delaney with Mr. Bell.
Mr. Dulski with Mr. McClory.
Mr. Murphy of New York with Mr. Findley.
Mr. Patten with Mrs. Dwyer.
Mr. Thompson of New Jersey with Mr. Hunt.
Mr. Daniels of New Jersey with Mr. Widnall.
Mr. Barrett with Mr. McDade.
Mr. Hanna with Mr. Goldwater.
Mr. Abourezk with Mr. Clay.
Mr. Pucinski with Mr. Diggs.
Mr. Boland with Mrs. Heckler of Massachusetts.
Mr. St Germain with Mr. Broomfield.
Mr. Mikva with Mr. Mitchell.
Mr. Teague of Texas with Mr. Skubitz.
Mr. Eckhardt with Mr. Stokes.
Mr. Giaimo with Mr. McKinney.
Mr. Lennon with Mr. Jonas.
Mr. Nix with Mr. Johnson of Pennsylvania.
Mr. Aspinall with Mr. Keating.
Mr. Curlin with Mr. Hillis.
Mr. Edmondson with Mr. Minshall.
Mr. Green of Pennsylvania with Mr. Schneebeli.
Mr. Udall with Mr. Steiger of Arizona.
Mr. Evins of Tennessee with Mr. Derwinski.
Mr. Pickle with Mr. Brown of Ohio.
Mr. Pryor of Arkansas with Mr. Hansen of Idaho.
Mr. Waldie with Mr. Wiggins.
Mrs. Griffiths with Mr. McDonald of Michigan.
Mr. Patman with Mr. Belcher.
Mr. McMillan with Mr. Betts.
Mr. Link with Mr. Byrnes of Wisconsin.
Mr. Dorn with Mr. Scott.
Mr. Garmatz with Mr. Springer.
Mr. McCormack with Mr. McCulloch.
Mr. Flynt with Mr. Schmitz.
Mr. Abernethy with Mr. Galifianakis.
Mr. Gallagher with Mr. Miller of California.
Mr. Nichols with Mr. Adams.
Mr. Baring with Mr. Blanton.
Mr. Reid with Mr. Bevill.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BILL TO RESTRICT TRAVEL TO COUNTRIES ENGAGED IN ARMED CONFLICT WITH THE UNITED STATES

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

Mr. ICHORD. Mr. Speaker, in July of this year the actress Jane Fonda traveled to North Vietnam. She did so without a passport validated for travel to that country, without informing the State Department of her intention to travel to North Vietnam after first going to Russia, and without seeking any official authorization for the trip. Her actions, of course, were not the first we have witnessed in this vein. North Vietnam seems to be becoming a popular destination. It certainly is a means for guaranteeing publicity for the junketeer. These journeys to North

Vietnam have been for a variety of purposes. The most recent ones have served to spread the enemy propaganda about dike bombing, they have aided the enemy's design in releasing prisoners of war in a dribble, they have falsely publicized the kind of treatments being afforded to the prisoners of war, and they have endeavored to sap the will and morale of our servicemen in Southeast Asia. Jane Fonda, serving as a tool of the Hanoi propagandists, made more than 20 broadcasts to American troops. Her statements are of a most pernicious nature. In my judgment they were clearly designed to engender doubts in the minds of our servicemen concerning their loyalty to the United States and their willingness to carry out military orders. This is the stuff of which sedition is made.

Over Radio Hanoi, directing her remarks to American servicemen, Jane Fonda said for example:

Please think of what you are doing—have you any idea what your bombs are doing when you pull the levers and push the buttons?—how does it feel to be used as pawns?—tonight when you are alone ask yourselves: what are you doing? Accept no ready answers fed to you by rote from basic training—I know that if you saw and if you knew the Vietnamese under peaceful conditions, you would hate the men who are sending you on bombing missions—if they told you the truth, you wouldn't fight, you wouldn't kill—you have been told lies so that it would be possible for you to kill.

It would require a gross distortion of logic to conclude that these statements were not intended to create doubt in the mind of the listener. Is it not obvious that these remarks were intended to serve as a stimulus for diminished morale and loyalty, or for refusal of duty? It was the purpose of the sedition statute to prohibit such conduct. Regardless of how we may feel about the war in Indochina, we must not sanction efforts to destroy the morale and discipline of our troops.

The committee has been assisted in analyzing the psychological effects of the Fonda broadcasts on American servicemen by several experts in the field of psychological warfare. For the benefit of my colleagues I am appending to these remarks two of the analyses which have been prepared by these experts in their field. A review of these analyses is most helpful in demonstrating the serious effects of the broadcasts of Jane Fonda. Since it did not appear that the Department of Justice had consulted any such experts in order to be apprised of the likely effects of the broadcasts, I have also made these analyses available to the Department. The analyses are keenly relevant. The broadcasts cannot be studied in a vacuum. Although the American involvement in the war in South Vietnam is winding down, we must not lightly regard or dismiss blatant attempts to destroy troop morale at this critical juncture in our history.

Soon after learning of her initial broadcasts, my colleague from Georgia, Congressman FLETCHER THOMPSON, asked that the Committee on Internal Security conduct an investigation of the matter, giving consideration to the issuance of a subpena to Miss Fonda. The committee met on August 10 to take the request of Mr. THOMPSON under advisement. By a vote of 8 to 1 the committee agreed to ask the Department of Justice for a report on the case. The text of my letter to the Attorney General conveying the wishes of the committee was placed in the CONGRESSIONAL RECORD, volume 118, part 22, page 28287.

The Department of Justice subsequently advised that a report could not be submitted by the date which the committee requested, inasmuch as the matter was still under investigation. Then, in response to my invitation, Assistant Attorney General A. William Olson appeared before the committee in executive session on September 19 to orally review the subject. Additionally, the committee heard the testimony of Mr. Robert Johnson, Deputy Director and Chief Counsel of the Passport Office, in relation to Fonda's travel and the difficulties in enforcement which are generally encountered by the Department of State. The testimony of these witnesses helped to clarify weaknesses in the law which make it inordinately difficult to apply criminal sanctions to conduct such as that of Jane Fonda. Although the Department of Justice testified that the Fonda case is still under prosecutive consideration, it is rather obvious that the executive branch is encountering severe difficulty in applying present statutes to the Fonda circumstances.

In considering the applicability of the treason or sedition statutes to activities of U.S. citizens within North Vietnam it does not take a great deal of imagination to recognize that witnesses are not readily available to prove the conduct in a court of law. If we can generally agree that the activities of U.S. citizens in North Vietnam have been overwhelmingly adverse to our national interests, then the solution is to simplify the evidentiary requirements by making unlawful all travel to countries with which we are engaged in armed conflict, except insofar as deemed necessary by the President in the national interest.

In analyzing the Fonda broadcasts, as well as the activities of others who preceded her, it has appeared to me that a new statute is needed which would authorize the President to restrict travel to countries whose military forces are engaged in armed conflict with ours. The President would be empowered to make exceptions in the national interest, but all other travel to such countries would be unlawful. I think it is fair to say that the general attitude of the committee's witnesses is supportive of this legislation.

In introducing this bill today, the text of which follows, I am joined by 5 other Members of the Committee on Internal Security, Mr. ASHBROOK, Mr. DAVIS, Mr. THOMPSON, Mr. ZION and Mr. SCHMITZ.

Mr. Speaker, I feel very strongly that Miss Fonda violated the criminal laws of the United States when she traveled to North Vietnam and made the foregoing propaganda broadcasts to American troops. I also feel very strongly that she will never be prosecuted by the Department of Justice. However, I cannot fault the Department of Justice altogether. There are very serious evidentiary difficulties as well as the consideration that prosecution will result in making a martyr out of a person who does not deserve to be a martyr and also the probability of projecting a trial into the political arena much like the Chicago Seven conspiracy trial.

Therefore I firmly believe that the only way to obviate the controversy that has raged over the heads of Fonda, Ramsey Clark and others is to effectively forbid travel by any American citizen to a country with which the United States is having hostilities without prior permission.

I have no doubt about the constitutionality of the measure. It is constitutional. I can think of no legitimate reason why any American citizen should be permitted to travel to a hostile country without proper authorization. This measure represents one of the many realistic choices that this free society must begin to make between freedom and anarchy and license if we are to remain a free society.

A bill to amend section 4 of the Internal Security Act of 1950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783) is amended by adding immediately following subsection (c) of such section the following new subsection:

"(d) The President may restrict travel by citizens and nationals of the United States to, in, or through any country or area whose military forces are engaged in armed conflict with the military forces of the United States. Such restriction shall be announced by public notice which shall be published in the Federal Register. Travel to such restricted country or area by any person may be authorized by the President when he deems such travel to be in the national interest. It shall be unlawful for any citizen or national of the United States willfully and without such authorization to travel to, in, or through any country or area to which travel is restricted pursuant to this subsection."

(b) Section 4 of such Act is further amended by redesignating existing subsections (c) through (f), as (d) through (g).

BIOGRAPHICAL DATA OF FRANCIS M. WATSON, JR.

Francis M. Watson, Jr., is a graduate of the University of Georgia where he received both a BS in Education and a Master's degree in journalism. In the early 1960's he was Deputy Manager of an information analysis center for the American Institutes for Research where he conducted research in insurgency and propaganda techniques and revolutionary tactics. He became a specialist in media analysis whereby public opinion trends may be determined from newspapers and other information sources. In 1970 he became chief analyst for a Washington, D.C., firm, "National Media Analysis," where he studied the so-called "underground" press and edited published reports detailing the propaganda impact of such newspapers with respect to revolutionary and protest movements in the United States. He currently manages his own firm, Media Research, located in Dunn Loring, Virginia.

SEPTEMBER 11, 1972.

DR. JOSEPH E. THACH,
Research Analyst Committee on Internal Security, House of Representatives, 309 Cannon Building, Washington, D.C.

DEAR DOCTOR THACH: The enclosed selection of broadcasts, attributed to actress Jane Fonda, were reviewed as you requested. Frankly, although I have poured over liter-

ally thousands of pages of underground press material in the past few years, I have found little that I felt qualified more precisely as purely psychological warfare than these. I use this term in the sense of Dr. Paul M. A. Linebarger's classic book on the subject and of the FM 33 series of field manuals produced by the U.S. Army since the 1940's.

I have to discount Miss Fonda's words as constituting an anti-war protest, not only because they were allegedly directed toward U.S. military forces in the field—a group hardly in a position to act on anyone's protest without disobeying the orders they are operating under—but because she says as much in her text. In other words, she is not addressing her remarks toward influencing the voting behavior of fellow citizens, or toward legislators who are passing on military appropriations etc., or the President, Secretary of Defense, or even commanders in the field, she is, in her own words, addressing herself to men at the operational level of military units and suggesting to them that they not follow their orders.

As I noted in the beginning, her techniques, phraseology, and themes are more comparable to combat propaganda operations, designed to encourage misbehavior on the part of troops, than anything else I can think of. For example, her words seem to fit the following passage rather well:

. . . Another major direction of the propaganda effort is to emphasize to the enemy soldier the dangers of combat. Such an appeal, combined with a questioning of the worth of his country's war aims, is designed to encourage the enemy soldier to be particularly cautious and to malinger and avoid danger at every opportunity, thus reducing the combat effectiveness of his unit. [p. 12, U.S. Army FM 33–5, January 1962]

Perhaps more specifically to the Vietnam situation, I see the texts of these broadcasts as falling quite handily into the statement of a primary psychological goal of insurgent forces as stated in the 1966 edition of this same manual:

. . . to convince the world and the local population that the motives of nations assisting the threatened government are false. Through national and international media, the insurgent will attempt to malign the motives of all assistance to the local government. Economic exploitation, neo-colonialism, genocide, and capitalism seeking raw materials and markets are some of the numerous themes used to elicit sympathy and support. [p. 35, U.S. Army FM 33–5, October 1966]

Certain passages in Miss Fonda's material call to mind descriptions of propaganda aimed at the French in the Algerian experience:

. . . Frenchmen were told that the war waged by France was unjust, that the FLN was justified in fighting for independence, that the very principles invoked by the FLN were learned from the French Revolution, etc. . . . [p. 279, *Undergrounds in Insurgent, Revolutionary, and Resistance Warfare*, Special Operations Research Office, The American University, November, 1963]

Similar material, of course, can be found in the literature on most revolutionary operations in the past fifty or sixty years. The Huks in the Philippines, for example, used some of the same themes.

Getting directly to the resemblance of Miss Fonda's material and traditionally accepted psychological warfare techniques and the prospects of this material affecting troop morale, let me call attention briefly to the origin, history, and theory of this branch of military tactics. As pointed out in U.S. Army manuals, these techniques are as old as recorded history, but came into habitual use in the U.S. services in World War I. There these efforts focused on surrender appeals to hungry enemy soldiers in trenches. In World War II the techniques were further perfected and broadened, but still, as far as combat troops were concerned, the propaganda appealed heavily to hungry or beleagured troops or forces whose chances of victory and eventual return to their homeland were rather easily shown to be poor. And, more often than not, that has been the case, the propagandist could see a host of personal deprivations among the enemy troops he could seize upon. Even the Tokyo Rose type of effort, at the strategic level, dwelled on the length of time troops had been away from home and played upon their being out of communications with their families and the home scene.

Part of the intelligence operation connected with the propaganda effort has always been to find out what the target troops did and did not have. It would always have been ridiculous to beam "hunger appeals" to well-fed troops or "we have got you surrounded" messages to carrier-based pilots. But, the application of the techniques has generally been to make the propaganda appeal on the lowest rung of the "physiological-need" ladder—tired, hungry, cold, beaten men's minds are at the lower rungs and it is futile to appeal to them with more abstract messages.

Perhaps many of us have become used to judging propaganda in these terms—and perhaps we have become used to judging troop morale primarily on these bases. But, of course, the propaganda theory has always been that if the baser needs were satisfied the propagandist had to raise his sights. When the next level of needs were satisfied he had to raise them again. When personal welfare and safety were not really in much jeopardy he had to get almost completely out of those areas or his propaganda would simply be laughed at.

Look at Vietnam. The U.S. troops have had essentially everything they could possibly want for, in terms of creature comforts. And, compared to other military experience in world history, their tours have been short, their communications with home good, and so on. I don't mean to suggest that Vietnam duty is a picnic—having been all through the Vietnam command, I know better. It would be foolish, however, for any propagandist to try to get at those troops with the old ploys. About the only themes left are precisely those Miss Fonda harps on. Nothing in the books suggests the propaganda will therefore be any less effective—a well-fed man can simply be reached on matters that a hungry man would not even listen to.

Thus, in the broadcasts it is easy to spot attacks on what is the basic element of any healthy, well-attended fighting man's spirit—the justice of his cause. Obviously, a man who is hungry enough, will kill just to eat—a frightened man will kill to preserve his own life, etc.—but a man who is not so deprived or so threatened must believe in his cause in order to take another human life. Keep pounding at him with arguments otherwise—supported by evidence that the obvious enemy is not the only one who says this—and you begin to get to him.

Then, inject the "war crimes" fear—the "even you may have to answer for this behavior later!!" Use as a background the "women and children" plea, support it with the "I am seeing it with my own eyes, and I am an American, too" credibility potential, and lace it with allusions to the beauty of the women and the pastoral nature of the countryside. Come in with the "inhumanity of buttons and levers" against an enemy you don't have to face, and the tearing of flesh with plastic and metal. It is all in Miss Fonda's text and it is just as it should be, from the standpoint of good propaganda operations.

Finally, there are some distinct advantages to Jane Fonda. American movie star, and frequent personality around Army posts, as a speaker. She is immediately known. She is glamorous. She has all the trappings of self-sacrifice, and she has rapport. She knows youth and she knows the Army. In this respect she is better than any Tokyo Rose history has ever known—she is a walking encyclopedia of *current, cultural* and technical intelligence on the U.S. military and the young people who occupy so many of its ranks. She is even an expert on the anti-military movement. She mentions that and thus provides a readily available philosophy and group-association for her listeners.

Just in case all of these things will miss some people, she puts in the personal risk, the prisoner-of-war threat, and the people back home crying over the men overseas, and tops that off with hints that there won't be a job or a place in life for the returning veterans. It is quite complete.

Again, these broadcasts are, in my opinion, *good, military* propaganda. *Whether or not they affect troop morale is a matter of assessment, but there is nothing wrong with the design.*

Sincerely,

FRANCIS M. WATSON, Jr.

PREPARED STATEMENT: BRIG. GEN. S. L. A. MARSHALL, USA (RET.)

Gentlemen of the Committee, I prize the confidence placed in me implied by your invitation to appear and add my witness to that of the other retired officers from whom you are hearing. I am not—I was not—a professional officer. But while my-active service has been as a Reservist, particularly my support, my consistent backing, has always come from the Regular Army. I have known every Chief of Staff of the Army since John J. Pershing and in some measure I have served as an adviser to every holder of that office from the time of George C. Marshall. That is perhaps less important than that I have seen more of the Army under a greater variety of conditions than any American past or present. My first active service was in 1917 which, as I recall, puts me in the same bracket as Congressman Pepper though I have not touched base with him since one week after Pearl Harbor. My last active field service was in Vietnam, May-June, 1968, just 51 years after my start. My most recent duties in uniform occurred one week ago, I cannot recap the whole thing for you; it would be very boring. Suffice to say that I had extended combat duty in both World Wars, Korea and Vietnam. More to the point, in World War II, during the first year, I was Chief of Orientation of the Army and then became one of the three officers assigned by George C. Marshall to establish the Historical Division. In the immediate postwar period, at General Eisenhower's direction, I wrote the official doctrine on leadership for the officer corps of all armed forces, a work that still stands.

AUGUST 28, 1972.

To ROBERT M. HORNER,
Chief Investigator,
HR Comm on Internal Security,
Washington, D.C.

DEAR MR. HORNER: You wrote me asking my judgment as to the likely effect of the Jane Fonda broadcasts out of North Vietnam on U.S. service people stationed in that area.

First as to my credentials, the following points should be pertinent and sufficient, though there are others:

1. During WW II, I was special adviser to high command Central Pacific on psywar problems, in particular, how to increase our take of POWs, and in this I succeeded. I had the same advisory role in Korea, 1950–51.

2. In between wars I was called as an expert witness on this subject by the directors of Project Vista.

3. From 1955–58 I was a member of Special Ops Panel, D of D, responsible for scientific guidance on psywar ops.

There is no question about the intent of the Fonda broadcasts. The evidence prima facia is that the purpose is to demoralize and discourage, stir dissent and stimulate desertion. But then, that is not the question you posed.

Would it have any one or all of these effects provided the words of the broadcaster were heard by a vulnerable individual? Here I speak of the Fonda production as a whole. There is no reason to doubt that it would. To be effective, what is said has to be credible. When the propagandist speaks in the idiom of the audience to whom the words are directed, and in reporting as an eye-witness, cites facts, objects and circumstances with which the listener is likely to be familiar, that meets all of the requirements that insure maximum belief.

I would speculate that Miss Fonda gets help in the preparation of her broadcasts. They are expertly done and are models of their kind.

All of this having been said, as to the main question of whether she did material damage to the well-being of forces in Asia, or for that matter, in the ZI, I am unable to answer.

I would stand on the general proposition that in the occurring circumstances, when any fellow citizen is permitted with impunity to go to such extremes, men and women in the serving forces feel resentful, and in the overwhelming majority, to the degree that they believe they have been let down by government because it does not act, their own feelings of loyalty become taxed. The hurt here is long-term and indirect.

That still does not answer the question. I have no idea how many serving people heard Miss Fonda, or of those who heard, what percentage had previously discounted her as a liar, a trouble-making subversive or a half-cracked female. One would need to know such things to make an intelligent estimate.

I do know we have an extremely sensitive situation in Indochina, one probably without precedent in our history. On returning there in July, 1970 to get a measure of troop morale and discipline the Chief of Staff, USA, felt so much alarm at what he found that on getting back to Washington he visited the President to warn him that "anything might happen." That would include large-scale mutiny. Where the balance is just that delicate, any act of aid and comfort to the enemy of the United States could become the fatal straw.

Faithfully yours,

S. L. A. MARSHALL,
Brigadier General Retired.

NIXON ORDERS THE FBI INTO THE GRAIN CASE: OTHER ANGLES THAT NEED PROBING

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, President Nixon's decision announced by Vice President AGNEW to have the FBI investigate the Russian grain sales ends speculation on one facet of the deal. That facet is the question of whether or not inquiries into the facts of the sales were politically motivated. If wanting to know all of the details and insisting that they be brought out into the open is political, then the President's order directing the FBI investigation removes any doubt, and it is now clearly bipartisan, as it should be.

Both Republicans and Democrats want a clear understanding of what was involved in making the grain sales to Russia and, in particular, what part the Department of Agriculture played in the sales.

On July 8, the announcement was made simultaneously from the west coast White House by President Nixon and by Secretary Butz here in Washington that our Government had entered into an agreement with Russia for a 3-year sale of grain amounting to $750 million, of which at least $200 million would be involved in the first year. This announcement was hailed by the administration as a tremendous boon to agriculture and to our balance of trade. It certainly was. But more was involved than was indicated in the announcement.

The fact is that the announcement came after a huge, unannounced sale of wheat had already been made to Russia. On July 5, after several days of negotiations in Washington and New York, Continental Grain Co. had quietly completed a sale of 147 million bushels of wheat to Russia at an agreed price of about $1.63 per bushel free on board gulf ports. The public was given no information whatever on the deal.

This sale by Continental, 3 days before the announcement by our Government that a huge grain agreement had been made with Russia, was already double the amount of wheat that the Department of Agriculture indicated that Russia would buy from us during the next 12 months.

It is difficult to understand how the Department could have been unaware of Continental's sale. Not only was the Continental sale of July 5 twice as much wheat as the Department had indicated would be sold to the Russians this year, it was also a sale that involved more than $240 million. That was more than the total dollar amount that the Government announcement, 3 days later, indicated would be spent by the Russians for U.S. grain during the next 12 months. On July 10 Cargill completed a sale to the Russians for 37 million bushels and on July 11 Continental completed another sale to the Russians for an identical amount. Again there were no public announcements.

Despite all these sales, on August 1 the Department of Agriculture issued a demand and price situation report which said that wheat prices should remain around last year's $1.31 price level, if, mind you, Russian sales held up. The August 1 wheat situation report, for farmer reading, indicated that wheat exports would be up only about 168 million bushels, to 800 million bushels, in the 1972–73 marketing year.

It was not until 45 days later—more than 60 days after the sales had been made and the firms had an opportunity to buy up wheat and future contracts as cheaply as possible—that the Department issued any public outlook document indicating that wheat exports would go over a billion bushels. They finally did issue such a report less than a week ago, predicting wheat exports will run 325 million bushels over their August 1 estimate at 1,125,000,000 bushels.

This Congress votes tens of millions of dollars annually for the Department of Agriculture to gather information and advise farmers and the public on commodity situations. The reports are supposed to be honest and incorruptible. People are locked up for hours in a section of the USDA's South Building during the assembly and final release of some of these reports to avoid anyone getting an unfair market advantage from an early leak of information.

The failure of the Department to report information promptly to the farmers is just as inexcusable as leaks.

In this instance, the Livestock and Grains Subcommittee is advised that there was not only a failure to report to farmers, at least one report which would have tipped off producers to the dire needs of Russia for wheat—a report on worsening crop conditions in the Soviet Union—was classified as "confidential" in mid-August so it would not get out to the public, and to the farmers who had wheat to market.

This matter of the adequacy and the absolute integrity of our multimillion-dollar commodity information services is one of the most serious aspects of this whole situation, and I hope that both the Agriculture Committee, and the Agricultural Appropriations Subcommittee, will go into it with great thoroughness before this matter is finally closed.

The nonpartisan but Republican leaning Des Moines, Iowa, Register, long well-informed on agricultural matters, agrees editorially that public confidence has been shaken in USDA reports by the suppressed report episode and urged Congress:

To dig all the way into this and not be diverted by the undoubted diplomatic and economic advantages of the grain sales to Russia.

I include the editorial, from the Sunday Register of September 17, in the RECORD at this point:

WHAT'S THAT ODOR IN THE GRAIN?

Instead of blustering about a retraction from Senator McGovern for impugning his integrity on the grain deals with Russia, Agriculture Secretary Butz would be well advised to come clean on all the details. Blustering will not remove the suspicion arising from the musical chairs rotation of executives between USDA and the leading grain exporting companies during the time the deals were being made.

There is a strong smell of favoritism in the report by a USDA official Thursday that he was told to inform grain export companies of a change in export susidy arrangements ahead of the effective deadline. This apparently gave some companies an opportunity to make deals for substantial extra profits.

Butz cannot deodorize this situation by talking about the great benefits to America from large grain sales to Russia—everybody concedes that. But were the benefits dished out evenly or weighted toward the grain companies? Or were honest mistakes made in handling information about the grain deals?

It is clear that many wheat farmers were unable to benefit from the rise in prices caused by the extraordinary sale to Russia. There is doubt that USDA controlled information releases with the farmer's interest in mind. A report by a U.S. agricultural attache in late June indicating a much shorter Russian grain crop than previously forecast was not released by USDA.

Can the farmer be sure some members of the grain trade, who obviously are on intimate terms with USDA officials, did not have

earlier information than the public? Butz said the release of the Russian crop report was held up because it was "confidential", since it came through diplomatic channels. He said its accuracy was doubted and more information was requested. The latter is a good reason, assuming no hints leaked out to the grain trade.

The most questionable part of this affair is the handing out retroactively of juicy export subsidy payments to the grain companies. When USDA nnally realized that the world price (as well as the U.S. price) was being jacked up by the grain sales to Russia, it recognized that the export subsidy was no longer needed. But it gave the exporting companies a week to buy grain and still get in on the subsidies—amounting to 47 cents a bushel by that time.

USDA has long had a reputation for integrity in the release of crop report information and in all handling of agricultural information which is of market significance. Elaborate procedures are followed on assuring fairness and avoiding leaks. The recent happenings in the grain trade and its connections with USDA have shaken farmer and public confidence.

Congress needs to dig all the way into this and not be diverted by the undoubted diplomatic and economic advantages of the grain sales to Russia.

Although 221 billion bushels of wheat had been sold to the Russians within 6 days, no public announcement was made other than the one on July 8. The fanfare connected with that announcement and the emphasis given to the coming sales of feed grain was misleading to wheat farmers, to the grain trade and to the public with, of course, the exceptions of Continental and Cargill Grain Cos., who had already made the sales, and perhaps two or three other companies who were dickering for orders. They were not talking, of course, because they were busy buying cheap grain to fill the orders.

The price in these sales for Russia, we are told, was approximately $1.63, but that is not the total cost of the wheat. Uncle Sam has a policy of subsidizing wheat exports by paying the difference between what is called the world price and the domestic price if the latter is higher. It is paid by issuing so-called export subsidies. Russia had a record drought and desperately needs to buy wheat from someone. The United States is the only country where sizable amounts of wheat are now available. Russia had to come to us. They moved quickly, as I described, in the early July purchases even before they had signed an agreement with the administration to purchase U.S. grains on credit.

The Soviets have proved to be much better horse traders than our Department of Agriculture. They liked the price of $1.63, knew it was a bargain, and signed what apparently are firm contracts for large quantities of wheat with the grain companies for that bargain price, well knowing that the purchases would stimulate the market and cause it to go up rapidly. The grain companies had been assured by the Department of Agriculture that the export subsidy would be allowed to go up as much as was needed so that when the wheat price increased, the difference between cost of the wheat and $1.63 would be paid by Uncle Sam.

The use of export subsidies was a two-edge tool. It protected the grain companies that make the sales and also assured Russia of a very moderate price. Without assurance that the export subsidy would be available and would be allowed to climb as needed to make up the difference between $1.63 per bushel free on board gulf ports and the market price, it is obvious that the grain companies would not have contracted that much wheat for Russia at that price at their own risk. The grain companies were aware that in all likelihood the pressure on the market from the Russian sales would greatly increase wheat prices. Wheat is currently selling at $2.27 per bushel at Kansas City, which is 76 cents per bushel higher than it was on July 7, the day before the Russian Trade Agreement was announced.

That price in Kansas City translates into about $2.35 free on board gulf ports.

In 1 week's time following an announcement on August 25 by the Department that export subsidy rates would be readjusted for any sales made after August 24, 281 million bushels of wheat were registered for the special export subsidy for old contracts at 47 cents per bushel. That was August 28 to September 1. This cost the Treasury $131 million. It still has not been established how much the total subsidy cost will be for the Russian wheat sales but it will be in excess of $150 million.

At least two preliminary conclusions can be reached.

First, the practice of announcing policy decisions piecemeal by telephone calls to a few grain companies should be terminated. On August 24 Assistant Secretary Brunthaver asked an assistant to make a series of calls starting with the six largest grain exporters and notify them that a change in the export subsidy policy was imminent. A meeting was held August 25 for grain companies and an announcement was made of the shift in export subsidy policies. They were told that for 1 week starting August 28 there would be a special subsidy. It proved to be 47 cents per bushel—9 cents over the previous rate.

The second preliminary conclusion is that the export subsidies were unreasonably high because almost all of the available wheat to be sold at this particular time was in the United States. The Russians had to buy their needs from us; it was obvious their purchases would make the market prices rise, and they could have reasonably been expected to buy in the rising market just as our old and largest farm commodity customer, Japan, has had to do. That would have saved taxpayers most of the $150 million, and perhaps have salvaged the friendship of our old trading partner, Japan.

PRESIDENT NIXON'S RECORD IN EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 30 minutes.

Mr. QUIE. Mr. Speaker, President Nixon's education budgets for the fiscal years 1972 and 1973 are the two highest education budgets in history, calling for substantial increases over previous levels of support. The President has also proposed imaginative new Federal initiatives in education which should find approval both among educators and millions of citizens who are interested in education.

Yet I have received numerous inquiries from friends in the Minnesota Education Association who are troubled by statements of officials of certain national education groups that are highly critical of the President. Much of the misunderstanding has arisen from the fact that the President vetoed three Labor-HEW appropriations bills which contained amounts far in excess of even the increases he proposed in his budget. Every President must protect his budget. But whether we agree or disagree on the President's action on appropriations, we should understand the facts about his budget proposals and legislative initiatives for education.

The Federal budget is based not upon the calendar year, but upon a fiscal year which begins each July 1 and ends the next June 30. The budget is worked up and presented months in advance of July 1. Thus the last budget is presented by President Johnson was for fiscal year 1970—ending June 30, 1970. It was presented on January 15, 1969, shortly before President Nixon assumed office. He was able to make only minor revisions in that budget. The first real Nixon budget was for fiscal year 1971, and he has presented two others for the fiscal year 1972, and for the current fiscal year which will end on June 30, 1973.

The record on the education budget speaks for itself. President Johnson was rightly regarded as a friend of education, yet his last four budgets for the programs of the U.S. Office of Education ranged from $3,513,000,000 for fiscal 1967 to $3,591,000,000 in fiscal 1970—an increase of only 2 percent. The education budget for fiscal 1968 was a little over $4 billion, the highest in history before President Nixon. President Johnson cut this in 1969 to $3,790,000,000, and cut it again to the 1970 figure.

By contrast, the first real Nixon budget, for fiscal year 1971, included $4,002,000,000 for education—an 11-percent increase over President Johnson's last request and within a few million dollars of his record 1968 education budget. Far from cutting education budgets, as some misinformed critics have charged, President Nixon reversed a trend of cuts and began to make dramatic increases. His education budget for fiscal 1972 was $6,135,000,000—a 53-percent increase over the 1971 budget and the greatest single-year increase and the largest amount ever requested for Federal education programs. President Nixon's revised 1973 budget for education tops even this amount, maintaining vital programs at or above previous levels. Actually, President Nixon's education budget for fiscal 1973 is a 74-percent increase over the last budget of President Johnson.

The following increases are merely illustrative of the changes between President Nixon's 1973 budget and President

Johnson's last budget recommendations for education: $371.5 million—30 percent—more for aid for disadvantaged children, title I, ESEA; $110 million—120 percent—more for educational research and development; $218.7 million—78 percent—more for vocational-technical education; $31.1 million more—four times as much—for bilingual instruction; $45.2 million—52 percent—more for the education of handicapped children; $22 million—20 percent—more for professional development in education.

President Nixon has also proposed very substantial increases in funding for higher education, the lion's share of which has been for student assistance—from $648,700,000 in President Johnson's last budget to $1,211,745,000 in President Nixon's 1973 education budget. Helping students to obtain postsecondary education—whether it is vocational or academic in nature—is a major objective of America's teachers and parents. And it is a major objective of the Nixon administration, as shown by the budget figures.

Of course, within every budget some items are raised and some are decreased from year to year, and very often many educators and the Congress as well will disagree with the President on these items. I find, for example, that school people in Minnesota—and I think this is true across the country—greatly favor the equipment grants under title III of the National Defense Education Act. Yet President Nixon has recommended the elimination of this item from the budget—although Federal funds could still be spent for instructional equipment if his proposed consolidation of education programs was approved by Congress. What is not generally known is that President Johnson recommended the complete elimination of these funds in his fiscal 1970 budget, and the year before that he recommended reducing the $82 million for this purpose to a mere $18 million. The Congress has not gone along with either President Johnson or President Nixon on this item.

Mr. Speaker, I feel that the important thing is that educators and millions of citizens who care about education know these facts and give President Nixon the credit he is due, even though they may disagree with him on some of the details. Teachers and school administrators will vote for and against the President on the basis of many issues, not all of which will be related to education. I have not agreed with the President on every detail, yet the fact is that he has recommended dramatically increased Federal support for education and the public has a right to know this. I think that those of us who deal with education have a special obligation to deal with the issues fully and accurately, with a minimum of political rhetoric.

A President's record in education, as in other fields, does not consist only of his budget recommendations. As one Member of Congress who has been deeply interested in education, I commend the President for his legislative proposals to help improve the quality of education. Sadly, most of these have not been enacted by a Congress controlled by the other party. One which recently has been approved is the establishment of a National Institute for Education, which will put educational research and development on a par with medical research. I think that most people recognize—and particularly our educators—that we need to find effective answers to the many new challenges facing education. The National Institute of Education will be an important tool in achieving these results.

Racial segregation in the schools created by governmental action has been unconstitutional since 1954, and we have had a brand Civil Rights Act with specific provisions for school desegregation since 1964; yet President Nixon is the first President to request substantial Federal aid for school districts which are under court or Federal agency orders to desegregate, or which wish to do so voluntarily. He proposed legislation to spend $1.5 billion over 2 years for this purpose. The Congress did nothing on this emergency legislation for 2 full years, and only this year finally approved it. The President has also proposed limitations on busing as a desegregation tool, and the concentration of some of the desegregation-aid funds on remedial education in order to help racially isolated pupils in circumstances where true desegregation is difficult if not impossible to achieve. These funds, incidentally, would follow a disadvantaged pupil who transferred to a school in a more affluent area, and thus would encourage such transfers. While there has been great controversy on both sides of the issues presented by the President's proposals, I think he deserves credit for attempting to deal with these problems. One thing is certain, and that is that the schools cannot stand alone in dealing with the problems of racial desegregation as they have been asked to do for so many years.

One proposal of the President still languishing in Congress should commend itself to school officials all over the country, and that is the consolidation of some 34 separate educational grants into five broad areas of educational concern. This would be accompanied by an increase in the aggregate funding for the 34 separate programs by $300 million; in future years the Congress could further increase this support. The important things about this proposal is that it would vastly decrease the growing burden of administration and paperwork in these programs, would permit much more flexibility for the local schools in fitting the programs to educational needs of their own school, and allow a more creative use of Federal funds by teachers and administrators. While there inevitably will be disagreement on details—working these out is the legislative function—the principle of the President's proposal is sound and the consolidation of these narrow-purpose programs is long overdue. All too often Federal aid has become also a burden to schools because of the complicated procedures required to obtain it.

The President has also proposed a new Cabinet-level Department of Human Resources, which would combine the scattered responsibility for Federal programs in education, manpower training, and related fields in a single agency with greatly increased visibility and status for education. While I have long proposed a Department of Education and Manpower, I recognize that the President's recommendation is meritorious. It would combine more related functions, while accomplishing all of the objectives I had felt to be desirable. This, too, should commend the President to educators.

Mr. Speaker, there is a great deal more that could and ought to be said in support of President Nixon's record in education. For example, there is the monumental work of his Commission on School Finance, which is going to prove invaluable as we struggle with the complicated issues involved, reconsider the Federal role in helping to resolve them and increase the aid. This has been an administration which cares about education, and cares enough to tackle some of the really difficult problems. I am confident that when this record is fairly presented the President will have the understanding and support of a very substantial number of American educators. He deserves a fair presentation of his record, and I believe that he has earned that support.

THE URGENT NEED FOR BETTER MASS TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, one of the most pressing problems facing our cities today is the crisis in transportation.

This crisis centers around urban transportation facilities and directly affects more than 70 percent of the Nation's citizens who live in densely populated urban areas. It manifests itself in the form of urban congestion, deterioration of mass transit service, rising fares, and environmental degradation. However, it goes beyond urban boundaries. Congestion in aviation, intermodal conflicts, and financial distress among carrier companies are other manifestations.

Separate Federal programs with separate funding have contributed to built-in rigidity in our overall planning and implementation. As the record clearly shows, the result has been an imbalance in expenditures and accomplishments in streets and highways, to the neglect of other forms.

The bill I offer today would alter this inflexibility in our transportation programs. It does so by declaring that $2.3 billion in fiscal year 1974, and $2.8 billion a year for subsequent years would be made available from the Highway Trust Fund for use on whatever transportation problems and modes are deemed to be most urgent in a given State or urban center. The bill leaves intact $3 billion a year for continued work on the Interstate Highway System.

For those funds which are to be distributed to the distressed transportation

modes, the bill incorporates a specific formula to govern the allocation. Half of the total is to go to the States on the basis of the ratio of metropolitan areas within the respective State. One-quarter is to be allocated on the basis of area, and the remaining quarter on the basis of total population of the State. To protect those States which are small in geographic size, the formula provides that no State shall receive less than one-half of 1 percent of the amount allocated on the basis of area.

The allocation formula further provides for distribution of 90 percent of the authorized funds on the basis of the formula, and the remaining 10 percent would be available for grants by the Secretary of Transportation at his discretion for transportation purposes.

Planning, of course, is fundamental to progress toward achieving effective balance in transportation, and overcoming disturbing deficiencies in some sectors, particularly in urban mass transit. Aided by a better balance in funding, the planning process should be enhanced, and the end product should be a more effective, efficient, and better coordinated overall transportation service to the public.

There are two features of considerable interest in the proposal which I would like to emphasize. First, there is no attempt to scuttle the Federal highway program. Throughout the period covered by the bill, $3 billion a year remains for highway construction matters. This is important to those who fear that it is the intent of such legislation to bring highway assistance programs to an end overnight.

Another feature deserving of special mention concerns the method of distributing the money earmarked for general transportation purposes. As I noted previously, half of this money, amounting to over $1 billion the first year, is to go to the standard metropolitan statistical areas—metropolitan centers of 50,000 population or more. The second year, and subsequent years, the apportionment for these areas will be $1,260 million a year.

These funds are to be apportioned on the basis of population of the SMSA, of which there are 233. The funds are to be passed through the Governor of the respective State directly to the planning agency in the metropolitan center. Basing the apportionment on the population of urban centers reflects a recognition that the problems of urban transportation are in direct proportion to the total number of people to be served. Since 50 percent of the funds in this category will go to these centers, an apppropriate degree of emphasis is being placed where the overall transportation is greatest.

Mr. Speaker, we are at a critical stage in this Nation where transportation is concerned, and the crisis is most apparent and most urgent in public transportation in our urban centers. This proposal, S. 3825, attempts to rectify this problem by helping to improve troubled areas of transportation, wherever they may be, while continuing the highway program.

Mass transit has been the stepchild of Federal transportation assistance for too long. This imbalance has tended to assist in the destruction of our cities, plus badly aggravating the air pollution problem of our cities.

I therefore urge my colleagues on both sides of the aisle here in the House to give serious consideration to this proposal, and to the problems it relates to.

DISSENT ON DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 10 minutes.

Mr. BLACKBURN. Mr. Speaker, we will soon be voting on a foreign aid bill this week. At the present time it appears that my schedule will prevent my voting on this important measure.

An editorial commentary in the September 18, 1972, issue of Barron's makes some observations regarding foreign aid which I think merit careful consideration by all Members of this body.

The editorial follows:

DISSENT ON DEVELOPMENT—A BRITISH SCHOLAR DESTROYS THE CASE FOR FOREIGN AID

(By David A. Loehwing)

Washington, even with the candidates out on the hustlings, won't lack for spectacle next week. Envoys from 123 countries will gather there for a meeting of the International Monetary Fund, hoping to make a start on patching together some kind of world monetary order to replace the Bretton Woods Agreement, shaken a year ago last August when the U.S. went off gold. The outlook, admittedly, isn't too bright. For one thing, the U.S. still is dragging its feet, insisting that accord on tariffs and other trade barriers be part and parcel of any monetary pact. Equally disconcerting will be the din set up by the have-not, or "developing," nations, whose representatives outnumber those of the "affluent" countries by almost five-to-one. Their shtick is that they want any new monetary system to give them permanent aid. Indeed, the demand theirs right off the top. SDRs, replacing gold in the world monetary system, would not be issued by the IMF on the basis of each nation's subscription, as is now the case, because that way they would simply go into the same old affluent-nation coffers. And that's a bore. Instead, they would be channeled to the developing nations, presumably the largest sums ticketed for the most poverty-stricken. The lucky recipients could swap the SDRs for real, honest-to-goodness merchandise from the rich.

Advocated by a Belgian economist at last spring's UN Conference on Trade and Development in Santiago, Chile (where else?), the foregoing proposal had to be watered down before adoption, because some have-nots feared it would be used by the well-to-do as an excuse to cut back, rather than step up, foreign aid. The widespread support it received, nevertheless, illustrates the attitude of the developing nations toward help from the "developed" countries. Simply put the beneficiaries insist it's a permanent arrangement; it's theirs by right; it's not enough. Nor is it surprising that they should grab for the handouts so ungraciously when they are constantly being assured by economists and other self-styled experts from the industrialized nations that aid is, in effect, permanent, rightfully theirs and too parsimonious. This view amounts to a consensus in the tight little circle of jet-set economists, anthropologists, diplomats and civil servants who administer relief on a global scale. Somehow they have won acquiescence from otherwise rational statesmen. Nothing in public life, however, is as suspect as a consensus, and fortunately an able iconoclast has emerged to challenge this one. He is P. T. Bauer, professor of economics at the University of London, who sets forth his unorthodox views in a book entitled "Dissent on Development."

Over the past quarter-century, according to former Treasury Secretary John B. Connally Jr., the U.S. has paid out about $150 billion in foreign aid, outlays which to some extent are responsible for the balance of payments deficits that wrecked the international monetary system. Most of the other industrialized countries now are caught up in the same fruitless philanthropy, to such an extent that the flow of financial resources to the developing countries—about 65% of which is in the form of grants, the rest loans—amounts to $18 billion annually, up from $9 billion a decade ago. Far from contributing to world peace and harmony, this vast outpouring tends further to divide the world. Witness last week's holdup of a U.S. loan to Uganda after the president of that country, in a letter to the UN lauded the Nazi slaughter of six million Jews. Indeed, the very concept of development, as propagated by the foreign aid specialists, is belligerent. It holds that the poverty of the poor countries has been caused by the wealthy ones; foreign aid, therefore is merely a form of compensation for past exploitation. Moreover, were it cut off, the poor would rise up and overwhelm the rich. By subjecting such axioms to critical examination. Professor Bauer destroys the argument for foreign aid.

. The foundations on which the case for development grants and loans rests, Professor Bauer says, are two hypotheses which experts have stated so often and so positively they are taken for granted. One is that the poor countries are caught in a vicious circle of poverty and stagnation; they cannot generate the capital necessary to pull themselves out of their predicament, because doing so would mean cutting consumption below the subsistence level. In other words, as one oft-quoted scholar puts it, "a country is poor because it is poor." The other key postulate is that of the ever-widening gap. It holds that, because the poor countries can't advance, they will inevitably lag or retrogress, while the wealthy ones will forge ahead; the disparity between per capita incomes therefore will grow. Logically, if these two statements are true, the only way out is continuing large-scale financial support of the poor by the rich nations. Professor Bauer, however, marshals persuasive evidence to the contrary on both scores.

The theory of the vicious circle, he notes, runs counter to the facts. All wealthy nations once were poor; if poverty prevents capital accumulation, how did they make the grade? The Pilgrims, to be sure, got some technical assistance from the Indians, who told them to plant fishheads under the corn stalks, but otherwise the U.S. started from scratch. Its success, moreover, is being emulated in many parts of the world. The economies of Mexico and Brazil are growing faster than that of the U.S. Nigeria's exports, mainly of ground nuts and cocoa, increased 100-fold in the first half of this century, although foreign capital input was practically nil. Hong Kong, a barren rock with no appreciable resources other than its people, has become a manufacturing center so competitive that western countries have put up trade barriers to protect their domestic industries. "Economic achievement and progress," says Professor Bauer, "depend largely on human aptitudes and attitudes, on social and political institutions . . . and to a lesser extent on external contacts, market opportunities and natural resources. If these factors favorable to material progress are present, societies will not stagnate. . . ." As for the thesis of the widening gap, it is largely based on statistical

aberration. If the average income in Ethiopia is really $40 per year, how do Ethiopians not only survive, but multiply? Actually, per capita incomes in many parts of the Third World are increasing as rapidly as those in industrial countries, but the gains are obscured by lumping them together with the slow growth rates of India and Indonesia. The latter's problems, obviously, have little in common with those of Peru or Nigeria.

The English economist contends that foreign aid is not a requisite for economic development of a backward country. "If the mainsprings of development are present, material progress will occur even without foreign aid," he says. "If they are absent, it will not occur even with aid." Sometimes foreign aid is detrimental, especailly when its administration saddles a poor country with a "managed economy." On that score he points to the government export monopolies in West Africa, which drain off peasants' profits from cocoa and coffee plantations to support dubious social schemes, and to the once-prosperous Indian province of Kerala, now impoverished by inflation. Frequently, too, foreign aid induces governments to launch grandiose and ill-conceived industrialization schemes while neglecting agriculture, normally the best hope for raising living standards in a developing country. Unaccountably, financial help from abroad also seems to foster xenoophobia. Hostility toward "expatriates," as foreign managers and employes are called, has been a factor in the decline of tea plantations in India and Ceylon; Burma's rice economy nose-dived after the forced departure of Indian's landlords; Uganda's economy certainly will suffer from explusion of people of Asian descent. India, of course, is guilty of the worst misuse of foreign aid—the military buildup for its attack on Pakistan.

If foreign aid is not needed and in some cases actually is harmful, why is its perpetuation advocated by so many economists of international repute? Says Professor Bauer: "The pursuit of certain unacknowledged political objectives seems to be present in much of the development literature. . . . What appears superficially to be a conflict between developed and underdeveloped countries is more nearly one aspect of a campaign against the west: there are many people in the west who for various reasons have come so to dislike major institutions of western society, especially the market economy and its corollaries such as private property, that they regard the radical weakening of these institutions as a major objective of policy. Many of these people, influential in the universities, the mass media and the international organizations, consider the underdeveloped countries as allies, or rather as instruments, in the promotion of their aims."

Is anyone at the IMF listening?

JOB TRAINING FOR INMATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, for years we have been deceived by the erroneous assumption that it would cost the Federal Government far too much money to invest in vocational training for prison inmates.

Yet over 80 percent of all ex-offenders are unable to adjust to society and ultimately return to prison. One explanation offered as to why so many are unsuccessful is that they have inadequate job training. After release, only 17 percent of all ex-offenders obtain employment related to skills learned while they were institutionalized. For those with no marketable skills, the majority must resort to crime to obtain money, and once again are at odds with society.

It costs at least $11 a day to retain an inmate in a cell which can cost as much as $30,000 to construct. Therefore, the Federal Government may be better advised to invest funds for training of inmates so that they can become productive—and, hopefully, law-abiding members of society.

My distinguished colleague and good friend, Senator CHARLES H. PERCY, has introduced an excellent piece of legislation on this matter, and I commend his initiative.

Briefly stated, the bill authorizes the Federal Government to implement pilot projects—along with the private sector—which would provide vocational training opportunities within prison to inmates. Private industry would lease prison property on long-term basis, and provide work facilities for the prisoners. Employers would hire inmates at union-scale wages to produce regularly marketable goods.

By earning such wages, the prisoner could pay for his room, board, and maintenance. Also, he could assist with the support of his family, pay taxes, and make social security payments. The Attorney General would be authorized to require the prisoner to contribute up to 10 percent of his wages to compensate the victims of the prisoner's crime. In addition, the inmate would be acquiring necessary skills for legitimate employment upon his release.

The legislation has received the endorsement of the Bureau of Prisons, the Illinois and the District of Columbia Departments of Corrections, and is sponsored by Senators PERCY, BENSTEN, BROCK, COOPER, DOMINICK, PASTORE, and TAFT. I am pleased to introduce the bill in the House of Representatives this afternoon with the hope it will receive early and favorable consideration.

POLLUTION CONTROL TAX ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HEINZ) is recognized for 10 minutes.

Mr. HEINZ. Mr. Speaker, I am today introducing the Pollution Control Tax Act of 1972 in the conviction that it is time to take a realistic look at pollution and to realize that pollution is something that cannot easily be overlooked, ignored, excused—or corrected. We have reached the time and place at which the contamination of our air and water can no longer simply be condemned but must instead be stopped. It must be corrected because we must not tolerate the threat it poses to our environment.

Many people reading the statistics on the dangers of pollution are no doubt startled or concerned for a period of time, but I fear that for far too many of us, our alarm is quickly forgotten. Far too many of us tend to feel that pollution is somebody else's problem—or that we can do something about pollution later. Frankly, we have reached the point in our history when contamination of air and water must be recognized for what it is—the diminishment and degradation of natural resources vital to life itself. Our very future existence on this planet is the issue.

Too many Americans, I fear, are content to believe the myth that increased production or new technologies will result in an unlimited supply of natural resources. And there are many who refuse to acknowledge that they themselves are responsible for part of our pollution problem. We, as ordinary citizens, too often have adopted the same pass-the-buck attitude also adopted by the polluter. And through our failure to take positive action to set a national environmental policy we have given all polluters the right to exhaust or destroy, in the name of production and consumption, our vital natural resources.

The Pollution Control Tax Act I propose will place the burden of pollution control where it belongs—on the polluter. And it will place the cost of the environmental damage caused by pollution where it belongs—on the product or service whose production results in pollution.

At the present time, the cost of pollution control is on each and every taxpayer rather than on the buyer or producer of the product or service that pollutes. Passage of my bill would provide both the penalties and the incentives for all polluters to reduce pollution below the accepted established standards, and in doing so relieve the taxpayer of the high bills he now pays.

By taxing polluters, as proposed, we hit pollution two ways. First, we make pollution a profit-and-loss decision. Polluters that continue to pollute will be taxed, thus making costs higher. Second, we also make pollution a consumer decision because the higher costs forced on the polluter by the tax necessitates a higher price for the product that pollutes. A responsible and aggressive competitor who is reducing pollution can take advantage of lower total costs and the rebate allowed and therefore charge a lower, more attractive price.

I would like to point out as well that the tax on each individual type of discharge will be uniform throughout the United States in order to prevent the degradation of areas with minimal air and water pollution, and to insure that all areas, all industries, all sources of pollution are treated alike and without discrimination.

Let me emphasize, too, that the tax applies to both stationary and mobile sources of pollution. It will be imposed on the operator of stationary sources, and, in the case of nonstationary sources such as buses, trucks, airplanes, and so forth, on the manufacturer or importer. An attack on both sources of pollution is vital if we are to be successful in cleaning up our environment. As support for this premise, one study taken in 1969 observed that if pollution from all stationary sources were eliminated immediately, 1 year later our air would still contain 86 million tons of contaminants due to nonstationary pollution sources.

As another case in point, there is practically no city in the United States with

a population of more than 50,000 which is not threatened by photo-chemical smog from the internal combustion engine. Thus it is evident that any air pollution solution rests in large part with our reducing the air pollution caused by buses, trucks, cars and other nonstationary sources of pollution.

The tax on stationary sources of pollution will be charged to the operator of that source. In the case of nonstationary sources, the tax will be imposed, at the first sale, on the manufacturer or the importer; it will also take into account the probable amount of emissions during the first year of operation as well as the estimated increase of emissions resulting from deterioration over the useful life of the vehicle.

In both cases just mentioned, the tax would be levied on the volume or weight of discharges into the environment, and the tax rate will be based on the estimated damage to the environment caused by the pollutants discharged. Under this act the Administrator of the Environmental Protection Agency is required to recommend to the Congress the rate of tax for each pollutant within one year after the enactment of this legislation.

A special and, I believe, uniquely attractive feature of my bill is that a tax rebate is available to the operator of a stationary pollution source. The allowable rebate on taxes paid is equal to one-half of the permanent reduction in discharge. For example, if a manufacturer reduces his emissions by 80 percent, he will receive a 40 percent rebate on the amount of taxes paid. The taxes collected over and above the amount paid out for rebates will go into general revenues and can be used for such programs as additional pollution control research, pollution control implementation incentives, or even lower Federal income taxes. By restricting payment of rebates to stationary sources in operation before the effective date of the legislation, the bill takes into account the problems which older industries may have at some future date in competing with the advanced or radically different technologies of new industries.

In order to safeguard the integrity of State and Federal pollution control programs, nothing in this legislation, including payment of the taxes imposed, shall exempt any source of pollution from Federal, State or local pollution control or abatement requirements.

In conclusion, Mr. Speaker, I believe the Pollution Control Tax Act of 1972 which I introduced today is a reasonable, effective, and nondiscriminatory mechanism for dealing with the threats and problems posed by the pollution of our air and water. I hope my colleagues will assist in the speedy enactment of this bill.

THE LATE HARRY KIPKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. GERALD R. FORD) is recognized for 5 minutes.

Mr. GERALD R. FORD. Mr. Speaker, a few days ago Harry Kipke passed away. He was a very close personal friend. As my football coach at the University of Michigan, Harry Kipke had a great impact on my life. I am certain he had a comparable beneficial impact on the lives of many others who had the good fortune to know him.

I respected, admired, and truly felt great affection for Harry Kipke. He had friends all over the country and in all walks of life. His death is a great loss to all of us.

I extend to his wonderful wife Flo and his fine family my deepest condolences.

Harry Kipke's great record in athletics, in education, in business, and in civic affairs is best set forth in an article by David Condon of the Chicago Tribune. I ask that this article be included as a part of my remarks. The article follows:

IN THE WAKE OF THE NEWS

(By David Condon)

Harry G. Kipke, a gentleman for all seasons, will be buried today after 73 years of delivering 100% to this tricky game of life.

While we pray, let's mentally retire his number, because the rosters suggest no one to replace him. There wasn't meant to be another Harry Kipke. Thank God for the one, a bonus citizen.

Harry Kipke's fame stretched beyond the playing fields. His influence and leadership were not confined within the arenas. Friends ranged from Ford's Harry Bennett to sportscasting's Harry Wismer.

He became a Chicago civic leader, in the finest tradition, after playing and coaching had added lustre to Michigan's football reputation. So the folk of Harry's adopted home town also have hearts suddenly heavy at the passing of this Wonderful Wolverine.

Oh, what a Wonderful Wolverine was Harry Kipke. One of the best among Michigan's legendary champions of the West.

A brilliant athlete on the high school fields in Lansing, Kipke advanced logically to nearby University of Michigan. There he won nine monograms in football, basketball, and baseball.

Football was his long suit. He became an All-American back who lived to be enshrined in the varsity Hall of Fame.

Now consider all the fabled coaches in Big Ten history: Amos A. Stagg, Bob Zuppke, Fritz Crisler, Bernie Bierman, Bo McMillin, Pappy Waldorf, Biggie Munn, Woody Hayes, Forest Evashevski, Ray Eliot, and the rest of an illustrious band. Kipke had one record none of these giants matched.

Harry Kipke of Michigan is the only man ever to coach four consecutive Big Ten champions or co-champions. The years were 1930 thru 1933.

Pop Warner had his double wing formation, Knute Rockne was famous for the Notre Dame box, Don Faurot and Bud Wilkinson are remembered for the Split T. Kipke's system was aptly described as the punt, pass, and prayer.

So when the Wolverines failed to win a conference game in 1934, an alumnus appraised: "Our punting was off, we had no passer, and our prayer went unanswered."

In 1921, Harry Kipke's first varsity year, the midwestern gridiron giants were Charles Maguire of Chicago; Aubrey Devine and Duke Slater of Iowa; Hunk Anderson, Eddie Anderson, and Roger Kiley of Notre Dame.

Red Grange was a sensational sophomore at Illinois, and Notre Dame's Four Horsemen were juniors, in 1923 when Kipke captained his last undergraduate team at Michigan.

Tho there were many memorable games, the one most vivid in Kipke's memory was played in 1922, at the dedication of Ohio State's awesome horseshoe stadium.

That afternoon the Wonderful Wolverine took a 40-yard touchdown pass from Irving Uteritz ran 55 yards for another T. D. after intercepting a pass, and kicked a field goal. That was only half the story.

Kipke's punting kept Ohio in the hole all day. He punted 10 times, always out of bounds, for a remarkable 47-yard average!

After that '22 season, The Tribune's Walter Eckersall—a University of Chicago immortal—experted for the Football Guide:

"Harry Kipke was the shining light of the Michigan attack. There is hardly anything on a football field which this player cannot do, and do a little better than most men who occupy one of the backfield positions. He was a tower of strength offensively, for he could skirt the ends, dash off the tackles, and execute forward passes with the proper deception."

Before the summons back to alma mater to succeed Tad Wieman in 1929, Kipke apprenticed as assistant at Missouri and as head coach at Michigan State.

But going home really ushered Kipke into the Big Time.

In 1929, Stagg still was at Chicago, Zuppke at Illinois, Rockne at Notre Dame.

And H. O. [Pat] Page was coaching at Indiana, Burt Ingwersen at Iowa, Dr. Clarence Spears at Minnesota. Dick Hanley was at Northwestern, Jimmy Phelan at Purdue, Glenn Thistlewaite at Wisconsin, Sam Willaman at Ohio State.

All had to make room for the Wonderful Wolverine.

Kipke had some storied players: Maynard Morrison, Harry Newman, Fred Petoskey, Ivy Williamson, Gerald Ford, Charles Bernard, Francis Wistert, and Bill Hewitt. He had those great seasons, too, but all good things must end.

When four dismal seasons followed the championship chain, the wolves howled. Kipke was replaced by Fritz Crisler.

Without a job, he came within a whisker of becoming head coach of the 1933 College All-Stars. In a nationwide poll, more than 4 million fans voted for Kipke. A handful more voted for Bo McMillin.

Undaunted, Kipke ran for the board of regents and was elected. He went into business, principally as a supplier for his old friends at Ford. He served four years in the naval reserve in World War II.

Then he homestaked in Chicago, becoming president of Chicago Coca-Cola, later chairman. His efforts led many civic drives and he met each challenge with the fury once unleashed on the gridiron. As president of the Chicago Convention Bureau, he made McCormick Place his arena.

Try to name Kipke's Chicago friends and you'll be counting thru next week. I wasn't born when Kipke played his final game for Michigan, but he was my friend, and my children's friend. He had a sincerely soft, hypnotic voice.

Kipke was a marvelous friend to party with. Aside from kindness, I liked his sense of humor best. He loved a practical joke.

At Michigan, Kipke's desk displayed a Rube Goldberg contraption—a jar with pipe stem, vents, and a fan. He called it a Breatholator.

Kipke never suggested that anyone test the Breatholator, but husky visitors who seized the bait and puffed mightily were blackened by a cloud of soot.

Today, in Port Huron, Mich., Harry G. Kipke will be returned to the earth. I cannot think of a finer eulogy than the tribute paid by Harry's closest friend, Patrick L. O'Malley, who told me:

"Any man who can leave such rich memories has lived his life fully. But Harry left us

more than a treasure of memories. He left us an example."

DR. AMI SHACHORI

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS), is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, there should be no place in this world for terrorists of any shape, form or fashion.

Terrorists attempt to accomplish through clandestine, atrocious acts what they and others who are in sympathy with them cannot accomplish through honorable, open means.

Instead of winning support for their cause, they succeed only in harming and killing innocent, unsuspecting people, and turning every ounce of contempt in the free world and elsewhere against them and their cause.

One of the latest acts of terror had a personal note for me.

Dr. Ami Shachori, 44-year-old agricultural affairs counselor in the Israeli Embassy in London, was killed September 19.

When my wife, Jolane, and I were in Israel in 1966 in connection with the House Government Operations Committee's study on increasing our agricultural exports to foreign countries, Dr. Shachori became my good friend. He and his wife Ruth and Jolane and I have exchanged correspondence through the years.

Now my friend is dead—killed by a bomb mailed to the Israeli Embassy in a harmless looking package. When he opened the package, it exploded in his face.

He was to have been replaced at his post in only a few short days. His wife and two children had already gone home to Israel.

For 13 years before going to London, Dr. Shachori ran an agricultural ministry erosion experimental station in Israel.

In one unsuspecting moment, my friend joined other innocent people of the world who have fallen victim to deceitful, disgusting acts of terror.

Dr. Shachori was a good man, an intelligent man, a family man. He was a man you would have been proud to know. His duties had nothing to do with politics or the military.

These senseless acts of terror must not be condoned nor be allowed to continue by any nation. Those who give sanctuary and support to terrorists must be willing to face the consequences. The terrorists must be willing to face the consequences. The terrorists must not be allowed to roam the world spewing out their venom. And they must not be allowed to return to their protected santuaries.

It is only when terrorists have no skirt or boundary to hide behind and when every nation of the world expresses its disgust through positive action that the world can see some lessening of these senseless unforgivable acts.

Mr. Speaker, my prayers today are for Ruth Shachori and for the two Shachori children and for all victims of a troubled world.

But, above all, my prayers are for peace. A world free of conflict and war. It is toward this end that we all must strive.

MR. JOHN WANER, FHA DIRECTOR FOR HUD IN THE CHICAGO AREA

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. KLUCZYNSKI) is recognized for 5 minutes.

Mr. KLUCZYNSKI. Mr. Speaker, I rise to congratulate and support Mr. John Waner, FHA Director for HUD in the Chicago area. Without regard to anything but the life and continued economic and physical health of the great city of Chicago, Mr. Waner has begun a series of reforms in the Chicago office of FHA with the complete support of his Regional Director, Mr. George Vavolis.

Among the reforms instituted by Mr. Waner are the tightened home inspection procedures; the supplying of legal services and counseling to home buyers; and most importantly, the courageous clean up of what had turned into an ugly racket of fraud and bribery of Federal employees. Mr. Waner has cooperated fully with the law enforcement agencies and has made every attempt to reform a program designed to benefit the little man.

Many responsible citizens join me in this recognition of Mr. Waner's service to the city of Chicago.

AMERICAN AGRICULTURE NEEDS 10-YEAR FARM PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, in just a few months farmers who produce our basic crops—cotton, soybeans, corn, wheat, grain sorghum, and barley—will be planning for the 1973 season. These 1973 crops will be the last for which programs are authorized by the Agricultural Act of 1970.

I take the floor today to remind my colleagues that continuation and improvement of these programs under which supplies of food and fiber are made available at reasonable prices is a matter of prime importance for every Member of this body. Members who represent substantial numbers of farmers producing these commodities have greater interest and involvement, of course, in the farm program. However, insuring that we have dependable sources of agricultural products is of vital concern to all of us. I urge all my colleagues to review what has transpired in the brief period of the 1970 statute which has been in effect.

I believe you will find that this law comes closer to doing all of the things required of farm legislation than any under which we have operated in the past.

Our present program gives farmers unprecedented freedom under government programs to adjust crop plans to changing conditions.

It reduces the role of government in handling and merchandising agricultural commodities.

It employs payments to farmers as a means of maintaining farmer income and obtaining program participation and compliance.

It authorizes temporary set-aside or diversion of cropland when necessary in order to reduce unneeded production of certain crops.

It provides for loan rates at levels that protect against price disaster but does not peg market prices at artificial, noncompetitive levels.

It limits the size of payment any one person can receive.

I am hopeful that the Agricultural Act of 1970 with improvements which we may may devise, can be extended to apply to the 1974 and subsequent crops. By this, I do not mean another 3-year bill. I believe farmers, their customers and their creditors are entitled to better treatment than the Congress has given them in the past.

I propose that we write a 10-year program into the next bill for agriculture. American agriculture needs a 10-year farm program. These farmers, in order to be efficient—in fact, in order to stay in business—need to have tied down for several years ahead as many as possible of the tangibles and intangibles with which they work.

Farming is big business even for the small farmer. Land is expensive, and scarce. Equipment is costly and prices seem to trend in only one direction—up. In addition, the farmer, through formal education or experience—preferably both—must be an expert in the handling of machinery, chemicals, water, and records. He must achieve a thorough understanding of the agricultural programs that affect him and his farming activities. He cannot control the weather, but in many situations he can adjust to it, and, also, to changing supply-demand-price conditions, if he has this complete understanding of the farm program and can count on it for the year ahead and even longer.

I have boundless respect and admiration for these people of the soil. I marvel at their patience, preserverance, and adaptability. They generally go about their profession in a steady, unobtrusive manner—so quietly that many find it easy not to remember how vital their contributions are to the survival of our Nation.

This body in the near future will have an opportunity to renew the programs under which these producers of food and fiber have given our Nation the greatest agricultural plant in the world. In the meantime, I hope that you will take some time to contemplate the role and needs of these farmers and agriculture generally in our society and economy. I would hope that as we consider the new agriculture program you will be ready to work with the Committee on Agriculture.

THE 15TH ANNUAL STEUBEN PARADE

The SPEAKER. Under a previous order of the House, the gentleman from New

York (Mr. ADDABBO) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, on September 23, 1972, more than 15,000 Americans will march up Fifth Avenue and participate in the 15th Annual Steuben parade.

Public officials, dignitaries, and millions of Americans of German descent will celebrate and pay tribute to those who have contributed so much to our Nation.

The tradition of Gen. Friedrick Wilhelm von Steuben has kept the Steuben Society of America strong and dedicated to the highest ideals of freedom and justice for all in this Nation. The history of General von Steuben's deeds following his arrival at our shores on December 1, 1777, is a record for all who love our country to be proud of and to remember. He was heroic in the battle to win independence for America; he joined with Gen. George Washington at Valley Forge to bolster and help organize our fighting men; he distinguished himself in the battles of Monmouth and Yorktown; he issued regulations for the training of American troops, and he is credited with the proposal to establish the U.S. Military Academy at West Point.

The Steuben parade is organized and sponsored by the German-American Committee of Greater New York which represents approximately 400 societies and organizations through its affiliated Steuben parade committee. It is a joint undertaking by all these groups which are dedicated to continuing the memory of General von Steuben, to honoring the scores of German immigrants who have been leaders and statesmen of American history from the battle for our independence down to the present day and to display the pride of our citizens of German descent in that history.

Floats, bands, and entertainers will be on hand as every segment of the German-American community is represented in this stirring celebration. A great deal of work and time has gone into planning this parade and there will also be a companion parade in the city of Chicago.

Among the many honored guests who will review the New York parade will be Gov. Nelson Rockefeller; Mayor John V. Lindsay; Consul General of the Federal Republic of Germany; and New York Supreme Court justice, the Honorable Albert H. Bosch, former national chairman of the Steuben Society, who also served as general chairman for the golden jubilee of the Steuben Society. Justice Bosch was my distinguished predecessor in the U.S. House of Representatives for the Seventh District of New York.

Grand marshal of the Steuben parade is the Honorable George Balbach, an outstanding justice of the criminal court of the city of New York.

The trademark for the parade will be the blue cornflower which is so common in Germany and a cornflower queen, will reign over the parade from atop the Cornflower Queen-Miss German-American float. The President of the United States will send a representative to review the parade and the Army, Navy, Air Force, and Coast Guard will be represented by bands, troops, and color guards.

The 15th Annual Steuben parade promises to be an exciting and stimulating day and I know that my colleagues in the House join with me in wishing our friends of German descent a successful celebration and in commending them for their outstanding contribution to our society.

KEEPING DANGEROUS DRUGS OUT OF THE UNITED STATES

The SPEAKER. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, I want to commend the President's announcement that he is prepared to cut off economic and military aid to all countries that willfully contribute to this country's narcotics problem. In his statement, the President stated he "considers keeping dangerous drugs out of the United States just as important as keeping armed enemy forces from landing in the United States." I think most Americans would agree with this statement, and would willingly join forces in support of the President's moves.

In November of last year, Congress passed the Foreign Assistance Act which includes authorization for such action as it states that aid shall be cut off from those regimes that the President himself determines have failed to take adequate steps to surpress dangerous drugs. It is significant that by law only the President can make such a determination. Continuous warnings have been made and action is overdue.

In August of 1971, members of the Subcommittee on Public Health of the Interstate and Foreign Commerce Committee visited the Far East in order to investigate the extent of production and abuse of opiates in that area of the world. This visit occurred shortly after Turkey's historic and courageous decision to eradicate the opium poppy itself. It was fully recognized at this time by the committee and, in fact, the world community, that Thailand and the bordering countries of Laos and Burma would become the world's largest source of heroin. Bureau of Narcotics and Dangerous Drugs officials are based in Bangkok and Chiang Mai and the Thai government's official position has been one of cooperation with the United States, however positive action has been minimal. According to the committee report submitted by the investigating unit:

> Most Thai officials discount their government's responsibilities and place the blame on the countries to which the traffic flows.

A Cabinet level task force report on the problem states:

> The most basic problem, and the one that unfortunately appears least likely of an easy solution, is the corruption, collusion and indifference at some places in some governments, particularly Thailand and South Vietnam, that precludes more effective suppression of traffic by the governments on whose territory it takes place.

It is time that our Government heeds the clear calls of both of these reports. An intense national effort must be made to rid our country of the dangerous menace of hard drugs.

We have issued a warning call—let it not be an echo but a mandate for action.

AMENDMENTS TO THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

(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, when the Occupational Safety and Health Act first was passed, it was with the hope and expectation that it would bring a sharp decline in the number of industrial accidents which annually take many lives and injure thousands more. I do not question that the bill has resulted in a reduction of this type of accident, but in the congressional zeal to enact this legislation serious inequities in the bill were disregarded, even though these inequities in the main were identified at the time.

There remains an opportunity and a serious need to correct some of the shortcomings in the existing law. This is particularly important in the way that the law affects small businesses, light construction, and the neighborly farmer.

I do not believe it was the true intent of the Congress to impose the same kinds of safety requirements on the neighborhood natural or bottled gas distributor as are imposed on the huge conglomerate operating a giant refinery. I do not believe it was the intent of the Congress to impose identical safety requirements on the small contractor who builds family dwellings or carports that are imposed on the contractor erecting a 50-story office building. I do not beileve it was the intent of the Congress to, in effect, halt the practice by farmers of allowing a neighbor in time of need to use their equipment on loan.

Yet, these are some of the results of the 1970 act. Small nonmanufacturing businesses or businesses with fewer than 25 employees cannot, under any conceivable stretch of the imagination, be lumped in the same category with the corporate manufacturing giants. To require identical safety standards for such diversity of safety hazard is unfair, costly, and impractical, and it should be rectified.

I have sponsored or cosponsored legislation which now is before the Committee on Education and Labor for consideration. Similar proposals have been put forth by other Members of the Congress. The time is late, but it is very necessary that corrective legislation be enacted.

H.R. 12068 would amend the 1970 act to provide that businesses with fewer than 25 employees would be exempt from the act providing existing State laws are applicable. This exemption would not, Mr. Speaker, serve to nullify the effect of the 1970 act. It rather would recognize the difference between large and small business and it would take into account that, provided there are State laws to protect the workers, the Federal regulations aimed at improving safety in big business would not work a financial hardship on the smaller business.

H.R. 12679 touches on the problem of the small versus the large contractor. This amendment would allow the Secretary to consider the difference between a

construction job of huge proportions and a small job where the construction of a private home or small building is undertaken. The present law does not allow the Secretary to exercise this discretion and the result has been that the small contractor now must spend thousands of dollars for safety equipment he does not need, cannot use, and cannot afford. Obviously, this is unfair and H.R. 12679 would rectify this inequity.

H.R. 14644 goes to the heart of a tradition in America, that of one neighbor helping another. In this case, I refer to the small farmer who loans his equipment to a neighbor to help with the harvest or planting. Under the terms of the 1970 act, this kind of neighborliness is construed as an employer-employee relationship and thus comes under the terms of the act. H.R. 14644 would alleviate this ridiculous situation simply by defining the terms of an employee as one who is paid for what he does. A farmer loaning his equipment and even operating it himself would not be considered an employee if he were not paid monetarily for his neighborly act.

Finally, Mr. Speaker, I would call the attention of the House to H.R. 13943 which, in effect, summaries the several amendments I have discussed here today.

I sincerely believe these amendments are needed if the Occupational Safety and Health Act of 1970 is to work to the advantage of all without undue hardship on a few.

There is no question that the Federal Government has a role in establishing safety and health standards in large business or in businesses with unusual risk and hazard. This is a proper role for Government. But I believe it is unjust for these regulations to apply across the broad spectrum of industry and lump the small business firm with the large manufacturer or industrialist.

I urge the Congress give serious consideration to the points I have raised. We are talking, not only about safety and health, but also about the very existence of many businesses in America. What good will have been done to enforce stringent, unworkable safety standards on a business in order to protect a few workers if those same regulations force the company out of business and throw its workers out of jobs.

I respectfully request favorable consideration of these proposed amendments.

THE RAFT TO FREEDOM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, it is my privilege to call the attention of my colleagues to a notable address by the distinguished Lieutenant Governor of Florida, the Honorable Tom Adams, before the Latin American Chamber of Commerce. His remarks to the Latin chamber in Miami on August 26, 1972, evoke the spirit of hospitality in which the people of Florida have offered refuge to so many victims of tyranny. I commend it to our colleagues and ask that it be inserted in the RECORD at this point.

REMARKS BY TOM ADAMS, LIEUTENANT GOVERNOR OF FLORIDA TO THE LATIN AMERICAN CHAMBER OF COMMERCE, MIAMI, FLA., AUGUST 26, 1972

A sad symbol for all free men rides at rest not far from where we meet tonight in a tragic and constant reminder of man's deathless drive for freedom from the fetters and shackles of tyrannical oppression.

The symbol is a monument to the unknown refugee. . . . A collective memorial for all of those who died for freedom. . . . Who died rather than remain enslaved by Communist ideology . . . Who chose action to decide their ultimate fate and not passive submission to a harsh and cruel way of life totally abhorrent to all men of good spirit and conscience.

The symbol is a small raft . . . eight feet by twelve feet . . . which once held the hopes and dreams of human beings . . . people risking all in a desperate float for freedom from their Cuban homeland . . . trusting in God and fair winds and currents to bring them to the shores of America.

The raft did come ashore not far from here . . . empty.

God had willed that the unknown refugees . . . the nameless freedom seekers . . . could best serve humanity by becoming enshrined in the memories of many as a poignant reminder that those who are shaped in God's image are formed free and subject to the capricious and despotic rule of no man.

The empty raft reminds us that life is lived, and then is passed back to its maker in an endless mystical rejuvenation of spirit and mind.

The cycle of life and death goes on. The sun rose yesterday . . . It rose again today . . . and, hopefully, it will rise again tomorrow . . . and with each new sunrise, man awakens and begins a day of his life . . . the sun sets, and he sleeps until the dawn of another day.

We each live to this solar rhythm . . . this sublime cycle in which all life is lived in accord with the universal rule of a divine and omnipotent being.

It has always been so since intelligent life was born upon this planet we call earth. Wherever he is as the sun lifts above the earth's rim, man awakens in accord with this solar cycle and tills the fields of his various human endeavors.

Life ebbs and flows with that beautiful and mystical cycle of sunrise, sunset.

With each new sunrise we have one God-given day in which to do all those things we believe to be important . . . and when the sun sets on that one day, it is gone forever beyond recall.

What we do with that day can well determine the ultimate fate of our children and their children's children. What we do with that day can determine with absolute finality whether there will be a world on which the sun will shine, on which night will fall, on which man will live.

Our days are not given to us to squander, or to wastefully spend drugged with apathy and sodden with lethargy, producing nothing of value and accomplishing only the profligate death of one day of life.

We *are* given our days so that we may achieve the greatest possible good for the greatest possible number of our fellow human beings.

There can be no finer achievement than dedicated service to our fellowman, whether in government, private life, or any other human endeavor. There can be no greater good than to help a fellow human being find the best possible of lives. The greatest good. The most sublime spiritual satisfaction . . . can be ours only if we live each day as if that day was our first, or last, day on earth.

Each of you had a day when the sun rose as it has for millions of years . . . and you took an action which changed your life, the life of your homeland, and which ultimately enriched the collective life of this American Nation.

You used that one day of your life wisely and well . . . you chose freedom, rather than life under a despotic and capricious ruler who turned a freedom-loving country into an armed camp for communism . . . a man who raised the colors of a revolutionary movement dedicated to free the Cuban people, and once he had won the trust of those people he changed that false flag of freedom for the Red banner of communism.

Your decision was a courageous and clear-thinking decision. Fidel Castro caused many men in the world to believe he was a force for good . . . a man who would bring the bright light of freedom to a land darkened by oppression.

His cause particularly was lauded by those Americans who leap before they think . . . who adopt the latest insanity as a sacred cause . . . by the limousine liberals who bleed in the abstract for humanity, but fail to help their neighbors in time of tragedy for fear of "becoming involved" . . . by those contrived conservatives who believe the only good goals are the accomplishments of our forefathers, like inventing the wheel and discovering fire . . . and they propose that mankind simply repeat those processes because they have been done before and therefore are safe to do again.

Neither of these philosophical outposts, these extremes in American life, are a true portrayal of our national character, but, rather a betrayal of the premises upon which this republican democracy was founded.

These people waste their God-given days searching for extremes . . . they are the fuzzy-minded intellects who bring us into a senseless war, who favor the criminal and not the victim, who mistake permissiveness for freedom.

That is why thinking and patriotic Americans welcome so fervently those of you who favored us by actively adopting our land as your land. We need you to bring us into better balance, to help us maintain a national stability somewhere between the extreme right and left, to cherish and vigilantly guard our freedoms because you know so well what their loss means to mankind.

You have changed our national life . . . have enriched it because of your knowledge and experience . . . have given us a wisdom which only those who have suffered oppression can have . . . and have brought us an understanding of the true worth of individual man.

The changes you have wrought are easily seen here in Miami, and in Washington, and admired by the rest of the Nation.

You have come to our shore with little more than your knowledge and dedication and have made a home. More than 300,000 freedom-loving Cubans in Miami have established nearly 5,000 business endeavors, and have an estimated annual income of $588 million.

You have had considerable impact upon the religious life of our State and Nation. You brought your church with you to a Nation founded upon the premise that there will be no State religion and that every man is free to believe as he desires.

Your impact in our Nation's Capital has been felt . . . your needs have been ably communicated and have touched the hearts of all freedom-loving Americans and, for this current fiscal year, we have $144 million devoted to our Cuban refugee program . . . an increase of $32 million above the last fiscal year.

You have helped America by your presence, and America is responding to the needs of the Latin community.

You have formed individual and collective alliances with America . . . first, by choosing our Nation as your haven of freedom, as your adopted country . . . and second, by your

financial and business endeavors which indicate a confidence in the future of our State and Nation.

These alliances are the fabric of our life . . . they have an impact for good far beyond the initial concept and implementation.

In 1963, in response to President Kennedy's call for an alliance of progress with all of Latin America, some States in our Nation adopted sister States to the south of us.

We in Florida formed a sistership with Colombia and founded the Florida-Colombia alliance. That alliance has had great personal impact upon me and has done much to strengthen the ties between my State of Florida, my Nation and my sister country, Colombia . . . as well as generate a profound and meaningful understanding and love for our friends to the south.

My greatest pleasure and personal reward from this alliance came recently when I went to Colombia with a group of Floridians to open up new areas of trade so that we may broaden our economic ties. While in Colombia, I went to Kennedy City and visited the Tom Adams School.

The sight of the four hundred students at the Tom Adams School was worth more to me than any material possession . . . the knowledge that they are receiving an education, are learning thoughts and skills which they will pass on to their children, has made all the days of effort worthwhile.

The realization that each day the sun rises, there are children in a nation plagued by poverty who are learning not only to survive, but to reach for the stars with unfettered spirits, will sustain me all the days of my life.

These are the alliances man must form with life . . . the use he must give to each day God gives him.

You have formed your alliance with America . . . an alliance initiated by a tyrannical and violent overthrow of established forms of life in your native Cuba, and in so allying with us you have brought a richness and depth to our national character which was not there before. You have given much more than you have received . . . and America is grateful to you and welcomes you as partners in our great democratic adventure.

Now that you have formed your individual alliances with America you must work with us to ensure that each day God's sun rises will be a day of productive joint effort to make this Nation the best of all possible nations.

We must work together so that each day, as the sun sets, we will know that we have bettered in some way the lives of those we love and who love us.

We must know that when the sun rises upon all the tomorrows of our national life that we are journeying toward that haven in which each man and his family is safe from oppression . . . in which each man and his family have a sense of dignity and purpose in life . . . and, in which each man and his family can live secure in the knowledge that sunsets only mark the beginning of a night of rest and not of terror.

You have known suffering and deprivation . . . you have known the lash of tyranny . . . and have been mocked by a mirage of freedom shown you by selfish and cynical men bent upon enslaving a nation and its people.

With this painful knowledge you can make each sunrise a national adventure . . . a national quest for the American destiny.

A destiny in which no American is hungry, or fearful, or without freedom . . . a destiny in which the minds of Americans can soar to the highest heights of cultural, intellectual and religious achievement . . . a destiny in which no man is less than another.

You must make each day of our national life a holy quest for that destiny of greatness . . . and you must begin here, where you live, for the waves of achievement you accomplish here will reach far beyond the place of first impact . . . like a pebble dropped into a calm lake sends ripples to the most distant shore.

Tonight, we are in an evening of one of the days God has given us . . . and each of us must silently assess how we have spent that day which has now passed beyond recall.

If we find ourselves lacking in some area . . . and this is only human . . . we must simply devote more spiritual and physical energy to the achievement of our personal and national goals . . . and, when tomorrow, with God's grace, the sun rises once again for us, we can make a new beginning . . . we can dedicate that tomorrow, and all of the tomorrows of our lives, to the quest for our true destiny of national and personal greatness.

Join with me, then, in joyful anticipation of tomorrow's sunrise . . . for it will begin the best day of our lives.

Thank you.

WILLIAM FITTS RYAN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I was absent when the special order was taken for a tribute to our distinguished, lamented colleague, William Fitts Ryan, or I would have joined my colleagues in a eulogy to him. An indication of his courage and character was emphasized in an editorial in the Washington Post of today which I ask to have incorporated at the end of my remarks.

Bill Ryan, as I call him, was a man of great vision and great compassion. His legislative record reveals his sensitivity to problems that were meaningful to people. He loved humanity and he fought to serve it and did serve it nobly. A little while ago there was a testimonial dinner to Bill Ryan in New York. He invited me to send a letter about him which I was pleased to do. I ask that my letter be incorporated following my remarks.

Mr. Speaker, our hearts are heavy that Bill Ryan will not be with us any more. We have lost a great colleague and a cherished friend. The Nation has lost a statesman. My wife joins me in expressing deepest sympathy to all of his loved ones.

[From the Washington Post, Sept. 20, 1972]

WILLIAM FITTS RYAN

In the death of William Fitts Ryan, New York City has lost a congressman of courage and the House has lost a member who often had uncanny foresight. Mr. Ryan's political courage was displayed early on, when in the late 1950s he challenged the entrenched might of New York's Tammany Hall. The ferocity of Manhattan politics, especially when Democrats go at each other, has ended many political careers before they began, but Mr. Ryan gambled successfully that the voters were tired of backroom manipulation. Once elected to the House, he continued taking risks by backing issues and ideas long before popularity made them safe. He called for admission of China to the U.N., spoke out against spending for nuclear arms and thought it foolish to renew funding for the House Un-American Activities Committee. Today, critics of the war are common, but few of the arguments they make now were not made years ago by Mr. Ryan. Though Mr. Ryan was often called by his critics a "wild-eyed" liberal, the turning of events suggests that his eye was not wild at all but well-controlled and excellent in vision.

In the June primary, Mr. Ryan won a spirited victory but the exhaustion of the campaign was apparently costly to his failing health. On the House floor following announcement of Mr. Ryan's death, his colleagues eulogized him for one and one half hours, a deserved tribute. Another kind of tribute will also be made by some members: a renewal of efforts to continue practicing the political ideals William Ryan believed in.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 10, 1971.
Congressman WILLIAM F. RYAN,
Tenth Anniversary Dinner,
New York, N.Y.

DEAR MR. CHAIRMAN: You will please allow me to join with the many friends of Bill Ryan who will be honoring him on this happy occasion. Bill Ryan as Representative in the Congress has made immeasurable contributions to the building of a greater and better America. He is an able legislator, a man diligent in the performance of his duties and deeply dedicated to the well-being of all the people of this great country, indeed all humanity. He has a warm humanitarian's heart; people mean something personal to him, and he tries to help those who need assistance as he would seek to aid a friend in trouble. Bill Ryan is color blind, he can't see black or white or yellow or brown—he just sees people—human beings, his brothers and sisters in the human family.

Bill Ryan is a gallant warrior for every worthy cause but he fights like a knight with chivalry and good nature. He is a friend whose friendship any man would appreciate. He has been my friend for many years.

I wish there were more Bill Ryans in the House of Representatives—in every legislative body—throughout government.

So it is with particular pleasure that I join you in warmest commendations of Bill Ryan. I wish I could be present to say so in person.

Warm regards, and

Believe me,

Always sincerely,

CLAUDE PEPPER,
Member of Congress.

THE TEACHERS' STRIKE

(Mr. BROYHILL of Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROYHILL of Virginia. Mr. Speaker, the teachers' strike that took place yesterday in the city of Washington is a tragedy for all involved. For the teachers themselves who have placed their own economic and personal considerations above the welfare of students. For parents who have paid their taxes to support the public schools for their children. But most of all for the children in the public school system, who are suffering because of a quarrel of which they have no knowledge, in which they have no part.

Certainly, a measure of blame for this and other teacher strikes must fall upon the shoulders of politicians who encourage and profit from them. I refer in particular to Senator GEORGE MCGOVERN, who two weeks ago said that:

Teachers belong in school—or on the picket line, if necessary—but not in jail.

This deliberate endorsement of teachers' strikes, of the kind now plaguing city after city in this country, represents

gross political irresponsibility on the part of Senator McGOVERN.

Reports have it that Mr. McGOVERN, for his endorsement of strikes by teachers, received a campaign contribution of a quarter of a million dollars. One hopes Mr. McGOVERN gets some mileage out of his contribution, for the parents and children in the public schools like Washington, D.C., are paying heavily for it.

Let me state my public philosophy on this question. Like the health and safety of a community, the education of children must not be considered just another chip on the table of collective bargaining. It is more important than that. And Mr. McGOVERN, and any political figure like him, who encourages the use of children as pawns in wage negotiations, does a grave disservice to the American people. And when endorsement of illegal or unethical conduct reaps as a reward an enormous campaign contribution from a teachers union, it is doubly inexcusable.

If this statement sounds angry, it is because I am angry with politicians jeopardizing the education of children to pick up campaign contributions.

AMENDMENT TO FOREIGN ASSISTANCE ACT

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, on Thursday, September 21, 1972, when the House of Representatives considers the Foreign Assistance Act, I expect to offer the following amendment:

SEC. 506. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to provide loans, credits, financial and investment assistance, or insurance guarantees on sales to or investments in any Nation which requires payment above nominal and customary costs for exit visas, exit permits or for the right to emigrate.

This amendment is designed to prohibit credits, loans, and guarantees on investment in the Soviet Union, as long as it continues to impose exorbitant exit charges on those who desire to depart the country. In the Soviet Union, these charges are reported to range up to 87,000 rubles.

These charges reflect a cruel and inhumane treatment—a monstrous ransom for citizens who desire to seek refuge.

MONTHLY GAO REPORT

(Mr. BROOKS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROOKS. Mr. Speaker, under the provisions of the Legislative Reorganization Act of 1970, the Comptroller General submits a monthly list of General Accounting Office reports issued or released during the previous month. I am pleased to offer for insertion in the RECORD the list of such GAO reports for the month of August.

A quick scanning of the list reveals the extensiveness of GAO's audit activity. For example, reports were issued on Federal drug abuse control activities, federally aided higher education programs, problems encountered by licensees of the Atomic Energy Commission, plans for the 1976 Denver Winter Olympics, computer performance evaluation techniques, as well as reports on Federal health activities under medicare and medicaid, international affairs, and defense procurement.

The complete list follows. I encourage every Member to study the list and order copies of those reports of particular interest to him.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 5, 1972.

The PRESIDENT OF THE SENATE,
The SPEAKER OF THE HOUSE OF REPRESENTATIVES:

Public Law 91-510, the Legislative Reorganization Act of 1970, directs the Comptroller General, in Section 234, to prepare and transmit each month to the Congress, its committees, and Members a list of reports of the General Accounting Office of the previous month.

Reports issued or released in August 1972 are listed on the attachment.

The title of each report, file number, date of issuance and agencies reviewed or affected are provided.

Copies may be obtained from GAO's Report Distribution Section, Room 6417. Telephone: code 129-3784 or 386-3784.

ROBERT F. KELLER,
Acting Comptroller General of the United States.

GAO REPORTS ISSUED OR RELEASED IN AUGUST 1972

I. REPORTS TO CONGRESS, COMMITTEES OR MEMBERS

Commerce and transportation

Examination into the financial activities of the Ohio-Kentucky-Indiana Regional Transportation and Development Plan and the Ohio-Kentucky-Indiana Regional Planning Authority. B-173350 of June 2, released August 2 by U.S. Representatives Donald D. Clancy and William J. Keating.

This is an examination into the financial activities of the Ohio-Kentucky-Indiana Regional Transportation and Development Plan and Regional Planning Authority. These organizations were formed to conduct transportation and urban-planning activities in the greater Cincinnati, Ohio, area.

GAO determined the source and amount of Federal funds provided for transportation and urban planning in the areas; the purpose for which these funds were spent; and, on a test basis, the propriety of such expenditures.

Education and manpower

Need for improved coordination of federally assisted student aid programs in institutions of higher education. Office of Education, Department of Health, Education and Welfare. B-164031(1) of August 2.

The Office of Education administers four major programs providing financial aid to students attending colleges, universities, and vocational schools: the Guaranteed Student Loan program, National Defense Student Loan program, College Work-Study program, and Educational Opportunity Grant program. The four programs provided assistance of about $1.7 billion to approximately 2.3 million students in fiscal year 1971.

On the basis of a sample audit, GAO estimated that 900, or 14 percent of 6,500 students enrolled at eight institutions, had been provided with aid under the federally assisted programs totaling at least $761,000 in excess of their indicated needs. Because some students received excess Federal aid, such aid was not available to others who qualified.

OE statistics for the Guaranteed Student Loan program showed that, as of June 30, 1971, the Government had paid claims totaling $17.6 million for loans on which students had defaulted. Statistics for the National Defense Student Loan program showed that outstanding loans totaling $22.2 million were delinquent from 4 months to more than 5 years.

GAO said the Congress should consider establishing an overall limitation on the amount that a student may borrow when participating in more than one loan program.

General Government

Examination of financial statements of the accountability of the Treasurer of the United States—fiscal years 1970 and 1971. Department of the Treasury. B-114802 of August 8.

In GAO's opinion, the financial statements accompanying its report, prepared by the Office of the Treasurer of the United States, present fairly the accountability of the Treasurer of the United States at June 30, 1970 and 1971, in conformity with principles and standards of accounting prescribed by the Comptroller General of the United States applied on a basis consistent with that of the preceding 2 years, except that the individual account balances included in the general account of the Treasurer are now presented on a final basis which GAO believes is an improvement.

Finance and operations of the John F. Kennedy Center for the Performing Arts. Smithsonian Institution. B-154459 of August 8, released August 16 by the Senate Committee on Public Works.

GAO was asked to review the status of construction of the building to house the John F. Kennedy Center for the Performing Arts, its management controls, use of funds, liabilities, theater rental practices, and concession agreements. The Center is administered under the direction of a Board of Trustees.

Problems of the Atomic Energy Commission associated with the regulation of users of radioactive materials for industrial, commercial, medical, and related purpose. B-164105 of August 18.

As of June 1971, AEC and State governments had issued about 16,300 licenses authorizing uses of radioactive materials by some 12,600 organizations or individuals.

The licenses are required for manufacturing and processing fuel used in nuclear reactors and for the industrial, commercial, medical, or educational use of radioactive materials but do not include the construction or operation of power reactors.

AEC has responsibility for enforcing its regulations for some 8,200 of these licenses, including those which involve the greatest potential hazards. State governments have responsibility for enforcing regulations for the remaining 8,100 licenses, under agreements with AEC.

This report informs the Congress of actions needed or taken by AEC to improve its regulation of those licensed to use radioactive materials.

Plans for staging the 1976 Winter Olympic Games in Colorado. B-135232 of August 18, released August 22 by the House Committee on Interior and Insular Affairs.

Legislation is proposed that would authorize a direct Federal appropriation to assist in financing facilities for holding the 1976 winter Olympic games in Colorado. This report reviews plans developed by the Denver Organizing Committee for the 1976 Winter Olympic Games, Inc., and by the city of Denver.

The Denver committee estimated that construction of new facilities and improvements to existing facilities would cost a total of $67.1 million. These facilities were classified as:

Cost in millions	
Minimum essential—those without which the games could not be held	$23.4
Highly desirable—those considered not absolutely essential but which would enhance the conduct of the games	28.8
Desirable—those which would be "nice" to have	14.9
Total	67.1

The Denver committee and the city of Denver have asked for a direct Federal appropriation of $19.9 million to cover a major portion of the minimum essential facility costs.

Opportunity for greater efficiency and savings through the use of evaluation techniques in the Federal Government's computer operations. B–115369 of August 22.

Because the Federal Government has thousands of computers, the annual operating cost of which is estimated at $4 to $6 *billion*, the potential for savings by improving the productivity of the Government's computers is apparent.

The report suggest that each agency consider the use of computer performance evaluation techniques, especially before acquiring additional computer capacity. Each agency needs to:

Make more use of techniques already developed.

Obtain more knowledge and expertise in using these techniques;

Report instances of significant improvements in computer efficiency to the Office of Management and Budget; and

Train personnel to use them properly.

Health

Problems associated with reimbursements to hospitals for services furnished under medicare. Social Security Administration, Department of Health, Education, and Welfare. B–164031(4) of August 3.

Annual Medicare benefit payments increased from $3.2 billion in 1967 to $7.5 billion in 1971—a 135 percent increase. About 70 percent of the payments were made to hospitals.

GAO made reviews at 14 large hospitals in five States which receive the majority of all Medicare hospital payments to find out whether the federally prescribed systems and procedures were adequate to insure that Medicare payments were made according to law and regulations.

Most payments to the 14 hospitals were correct. However, GAO noted problems in the administration of the Medicare hospital reimbursement system and questioned net charges to Medicare of about $622,300 involving payments to 12 of the hospitals.

The Congress has been considering various legislative changes to the Medicare and Medicaid programs, including authorizing HEW to experiment with various methods and techniques for paying hospitals on a prospective basis, rather than on the present retrospective-cost basis. GAO's comments on these proposed changes are included in this report.

Sizable amounts due the government by institutions that terminated their participation in the medicare program. Social Security Administration, Department of Health, Education, and Welfare. B–164031(4) of August 4.

This report contains information on problems experienced by HEW in recovering overpayments of millions of dollars made to hundreds of institutions which had terminated their participation in the Medicare program.

About 78 percent of the overpayments resulted from payments based on estimated costs that were higher than actual costs.

Overpayments occurred also because Medicare payments for—"current financing" to cover an institution's costs during the time it takes to process its bills and receive payments—were not refunded immediately, as required. As a result, institutions were paid again under normal billing procedures.

Overpayments occured also because tentative settlement payments—based on the institutions' unaudited cost reports—proved to be excessive.

GAO believes that the Medicaid law should be amended to authorize HEW to withhold Federal participation in State Medicaid payments to institutions which have terminated from Medicare but refuse to refund Medicare overpayments or to submit cost reports to account for Medicare payments received.

Drug abuse control activities affecting military personnel in the Department of Defense. B–164031(2) of August 11.

Intensification of law enforcement activities may have contributed significantly to the replacement of marihuana in the military services by more dangerous drugs such as heroin. Given legal sanctions against marihuana, possession or use by military personnel cannot be condoned.

There can be little alternative to mounting aggressive drug suppression and law enforcement activities, but doing so may create a more serious problem. On the other hand, unannounced urinalysis tests at randomly selected military units would be a more significant deterrent to drug users.

GAO discussed drug abuse problems with commanders and their staffs at various installations. They were very knowledgeable in the matters raised for discussion and generally agreed with GAO observations and recommendations.

Five enclosures to this report have been reported—four deal with overseas geographic locations visited and one with continental United States bases visited by GAO.

Federal efforts to combat drug abuse. B–164031(2) of August 14.

This Government-wide survey identifies and determines the extent of Federal agencies' involvement in drug abuse programs. Information presented was supplied by the President's Special Action Office for Drug Abuse Prevention and by Federal agencies involved. The funding information is incomplete because data was not readily available in some instances.

GAO did not evaluate individual programs but made observations about some major problems and overall efforts. GAO has issued, and is in the process of issuing, reports which evaluate some of the individual programs.

Federal spending for drug abuse control from fiscal year 1969 has been about $842 million—$366 million for treatment and rehabilitation, $266 million for law enforcement and control, $108 million for education and training, and $102 million for research.

This spending has not curbed drug abuse.

More needs to be done to assure that physicians' services—paid for by medicare and medicaid—are necessary. Department of Health, Education, and Welfare. B–164031(4) of August 20.

Payments for physicians' services substantially increased from 1967 to 1971—under Medicare from $513.3 million to $1.7 billion; under Medicaid from $203.7 million to $712.8 million.

This report comments on efforts made so far to reduce unnecessary payments to physicians and shows that further efforts are needed to comply with the intent of the Congress—to prevent improper payments of public funds to physicians under Medicare and Medicaid.

International Affairs and Finance

U.S. Government monies provided to radio free Europe and Radio Liberty. B–173239 of May 25, released June 2 by the Senate Committee on Foreign Relations.

Radio Free Europe consists of 32 transmitters having an aggregate power of over 2.2 million watts and broadcasts daily to Czechoslovakia, Poland, Hungary, Rumania, and Bulgaria. Radio Liberty has 17 transmitters in the Federal Republic of Germany, Spain, and Taiwan and broadcasts in Russian and up to 18 other languages of the U.S.S.R.

GAO concentrated its evaluation of administrative effectiveness of the Radios in terms of expenditures for salaries, travel, equipment, contractual services, etc., as distinguished from evaluation of their effectiveness in accomplishing their objectives.

Need for improvements in the management system to assess performance of aid-financed projects in India. Agency for International Development, Department of State. B–146749 of August 3.

From 1951 through 1970 AID made dollar loans totaling $712.3 million and local currency loans equivalent to $394.9 million for capital projects in India—concentrated in electric power, manufacturing, and railways.

GAO reviewed capital projects involving AID assistance of $5 million or more which had been completed at least 1 year, but not more than 10 years, to try to determine the success of these projects, the achievements of project goals, and AID's actions when goals and objectives are not met. There were 19 such projects to which loans totaling $687.4 million had been made—$418.1 million and the equivalent of $269.3 million in local currency.

AID has been limited in its ability to assess the effectiveness of its assistance and has lacked information on which to propose and to negotiate corrective action with appropriate Indian agencies.

AID recently established a system for obtaining production and other data necessary to ascertain whether anticipated levels of production and use are being achieved and to identify and analyze reasons for shortfalls. The system is directed only to projects to be completed in the future.

U.S. system for appraising and evaluating Inter-American Development Bank projects and activities. B–161470 of August 22.

This review assesses how U.S. officials managed U.S. financial participation in the Inter-American Development Bank (IDB). The U.S. Government has contributed 95 percent of the Bank's dollars ($3.5 billion) since 1960 and has agreed to contribute another $1.8 billion. An unclassified digest was issued in lieu of the report itself which contains classified security information.

For the most part, the United States has not done much more than agree to IDB proposals put before it or merely advise IDB of a contrary or different U.S. view on a proposed project or transaction. Privately U.S. officials opposed loans but never voted against any loan proposed by IDB's President.

U.S. officials have been able to delay loans to countries involved in expropriations of property and to exercise a restraining influence in some other areas considered out of line with U.S. interests. On other issues, however, the United States has not fared well. The lack of forcefulness by the U.S. has let these issues go unattended or only partially corrected.

National Defense

The importance of testing and evaluation in the acquisition process for major weapon systems. Department of Defense. B–163058 of August 7.

GAO reviewed 13 weapon systems with estimated total costs of more than $46 billion. They include such weapons as the Army's Improved HAWK missile, the Navy's DE–1052 (destroyer escort), and the Air Force's F–15 aircraft.

On the basis of its observations of the pattern of testing performance, GAO concluded that in DoD:

Practices used to establish objectives for testing generally were adequate;

Most weapon systems did not have adequate plans for conducting tests;

Testing and evaluation for most weapon systems was not accomplished in a timely manner;

Most test reports were adequate, but their value was diminished due to inadequate test planning and actual testing. Some reporting improvements could be made; and

Complete and valid test and evaluation data was not available prior to those times in the acquisition cycle when decisions had to be made.

Audit of payments from special bank account to Lockheed Aircraft Corporation for C–5 aircraft program during the quarter ended June 30, 1972. Department of Defense. B–162578 of August 11.

This is GAO's fifth report on the audit of payments from the special bank account to the Lockheed Aircraft Corporation for the C–5 aircraft program. This report covers the quarter ended June 30, 1972.

The review revealed no payments from the special bank account to Lockheed-Georgia during the quarter ended June 30, 1972, contrary to Public Laws 91–441 and 92–156.

However, two matters presented in GAO's fourth report which could affect future payment practices have not been resolved. These concerned the legal prohibition that Lockheed-Georgia not be reimbursed for bid and proposal (B & P) costs and Lockheed's receiving of the Government's contributions to employees' retirement funds and holding them an average of about 14 months before making payments.

These matters are discussed in the report.

Impartial cost-effectiveness studies found essential to selecting new weapons. Department of Defense. B–163058 of August 21.

GAO made a detailed review of cost-effectiveness studies on 16 major weapon systems—five Army, six Navy, and five Air Force.

Examples include the Army's TOW, a surface-to-surface guided missile, and its HLH, or heavylift helicopter; the Navy's F–14, an all-weather fighter aircraft, and its DD–963 fleet escort destroyer; and the Air Force's B–1 strategic bomber or MAVERICK, an air-to-surface missile.

GAO found the cost-effectiveness technique is of great value and (1) apprises the Congress of the necessity for the military services to apply cost-effectiveness studies in procuring new weapon systems, (2) offers suggestions for improving the technique, and (3) summarizes progress made by DOD.

Economies available through increased use of the Federal Telecommunications System by military installations. B–146864 of August 24.

GAO reviewed DOD policies and procedures concerning the use of the Federal Telecommunications System (FTS) intercity telephone service, managed by the General Services Administration (GSA). The review was made to determine the feasibility and cost effectiveness of increased use of such service by DOD installations, in lieu of more expensive commercial service. GAO concluded that expanded use of FTS service by DOD installations in lieu of commercial long-distance service is feasible and can result in substantial savings to the Government.

Further improvements needed in controls over government-owned plant equipment in the custody of contractors. Department of Defense. B–140389 of August 29.

On November 24, 1967, GAO reported to the Congress that there was a need for improved controls over Government-owned property in contractors' plants. Some progress has been made toward DoD's goal of generally requiring contractors to furnish all equipment needed to perform Government contracts.

However, existing legislation does not permit the direct sale of equipment through negotiation with holding contractors unless certain conditions are met. DoD officials feel that enactment of House bill 13792, which permits the direct sale of equipment to holding contractors, would facilitate DoD's efforts to phase out the use of Government-owned equipment at contractors' plants.

GAO has endorsed similar legislation, proposed in previous years, and agrees with the intent of House bill 13792 to permit direct sale of equipment to the using contractors.

Natural resources

Improvements needed in the assessment and collection of penalties—Federal Coal Mine Health and Safety Act of 1969. Bureau of Mines, Department of the Interior. B–170686 of July 5, released August 7 by the Conservation and Natural Resources Subcommittee, House Committee on Government Operations.

This review is directed to timely and efficient assessment and collection actions and the consideration given to six statutory factors in assessing civil penalties for violations of the mandatory Federal health and safety standards by coal mine operators and miners.

GAO found that about 4 months elapsed from citation of a violation by a mine inspector to assessment of a penalty and about 10 weeks elapsed from the request for a hearing by a mine operator to initiation of the hearings process.

Significant delays in referring cases for hearings and in conducting hearings on cases disputed by mine operators resulted in a backlog of 1,062 cases awaiting hearings ($2.8 million in assessments) by December 31, 1971.

Opportunities for improvements in reclaiming strip-mined lands under coal purchase contracts. Tennessee Valley Authority. B–114850 of August 9, released August 22 by U.S. Representative Ken Hechler.

This report is concerned mainly with the adequacy of provisions in TVA contracts for the reclaiming of strip-mined lands and the extent that these requirements were enforced.

Land reclamation activities under 25 of the 329 strip-mined-coal purchase contracts which contained reclamation provisions were reviewed. The contracts were awarded by TVA from 1965 through November 1971. The 25 contracts covered mining operations in the four States from which TVA buys most of its strip-mined coal: Kentucky, Tennessee, Alabama, and Illinois.

Prior to December 1971 TVA's land reclamation requirements were stated in broad, general terms which did not provide sufficiently precise standards to restore strip-mined lands adequately. These requirements did, however, represent a valuable step toward reducing damages caused by the strip-mining method of extracting coal.

TVA's latest requirements (December 1971) are more specific and are an improvement in TVA's approach to reclaiming of strip-mined lands.

Administration of regulations for surface exploration, mining, and reclamation of public and Indian coal lands. Department of the Interior. B–148623 of August 10, released August 25 by the Conservation and Natural Resources Subcommittee, House Committee on Government Operations.

Permits and leases on public and Indian lands are administered by the Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA) Department of the Interior. It's Geological Survey is responsible for providing scientific and technical advice to both BLM and BIA.

Departmental regulations on surface exploration, mining, and reclamation regulations should help in protecting environmental values. Although established for more than 3 years, the regulations were not being implemented effectively in several significant areas.

BLM has issued formal instructions to its field offices to implement the Department's regulations. The Survey and BIA have not. Issuance of such instructions would assist field personnel in administering and implementing the regulations.

The Department's regulations for implementation of National Environmental Policy Act of 1969 require consideration of the ecological factors for coal permits and leases issued on public and Indian lands. The Council on Environmental Quality requires that each Federal agency prepare formal procedures for the preparation of environmental impact statements.

BLM's procedures do not comply with the Council's implementing guidelines because they do not outline the criteria to determine when and under what circumstances environmental impact statements should be prepared. GAO believes that BLM should revise its procedures.

Legislation needed to revise the interest-rate criteria for determining the financing costs of water resource projects. Departments of the Interior and Army. B–167712 of August 11.

The Federal Government constructs, operates, and maintains multipurpose water resource projects and makes loans to assist State and local organizations in developing small reclamation projects.

Costs repayable by project users generally include (1) the Government's investment—land acquisition costs, construction costs, and interest capitalized during construction—and (2) annual interest on the unrepaid investment in the project or loan.

Although increasing benefits are being provided to private industry and to the public through development of multipurpose water resource projects, the Federal Government's cost of financing these projects is not being fully or uniformly recovered from project users.

The report includes GAO's recommendations for amendments to present laws to correct the situation.

Letter Reports

Five reports in the form of letters from the Comptroller General were released during August.

To Senator William Proxmire—concerning the practice of active duty military personnel writing articles for publication in magazines published by military associations with advertising from defense contractors. B–170924 of December 22, 1971, released August 8.

To the Chairman, Subcommittee on Health Senate Committee on Labor and Public Welfare—concerning the whole-body irradiation program at the University of Cincinnati Medical Center and the Department of Defense policy on the protection of humans used in medical research projects under contract. B–164031(2) of May 26, released August 2.

To the Chairman, Subcommittee on Postal Facilities and Mail, House Committee on Post Office and Civil Service—examining selected terminated architect-engineering design contracts for Postal Service buildings. B–171594 of June 13, released August 2.

To Senator William Proxmire—on procedures used by the Defense Personnel Support Center for pricing produce for sale to military commissary stores. B–146875 of June 20, released August 16.

To Representative Les Aspin—concerning methods used by the Department of the Navy and Litton Systems, Inc. in computing escalation in the DD–963 program. B–170269 of July 21, released August 23.

II. REPORTS TO HEADS OF DEPARTMENTS AND AGENCIES

Actions needed to terminate Federal administration of State rural rehabilitation funds program. (To the Secretary of Agriculture.) Farmers Home Administration, Department of Agriculture. B–114873 of August 18.

Since the mid-1930s the Farmers Home Administration (FHA) of the Department of Agriculture and predecessor agencies have administered, in trust, assets belonging to State rural rehabilitation corporations. The

assets consist primarily of farm ownership and operating loans.

As of June 30, 1971, FHA had returned to the States most of their trust assets and was taking adequate action to return most of the remaining assets. Additional action should be taken, however, to complete the return of all assets and to terminate FHA's responsibility for control over the uses made of the returned assets.

Need to strengthen controls over the procurement and use of household goods containers. (To the Secretary of Defense.) Department of Defense. B–159390 of August 28.

During a survey of the household goods moving and storage program of the DoD, GAO noted that controls over the procurement and use of Government-owned packing containers appeared inadequate. The report states that DoD could realize significant savings by procuring household goods containers locally at certain overseas activities rather than from GSA. DoD acknowledged proposals made by GAO and stated that it would take the necesasry corrective action.

The Air Force gunship program—successes and lessons to be learned. (To the Secretary of Defense.) Department of Defense. B–176702 of August 31.

The Air Force spent about $317 million to convert C–130 and C–119 aircraft to gunships from 1968 to 1971. The program was highly successful in producing effective combat systems. Gunships have been used extensively in Southeast Asia for various purposes, including base and hamlet defense, close support of ground troops, and interdiction of enemy supply lines. Battle damage assessments confirm that they have performed well. On the basis of these successes, C–130 gunships are expected to remain in the Air Force inventory through the 1970s.

The program was well managed generally, in that an effective weapon was produced in a relatively short time. The most serious problem, in GAO's view, is the ability of one military department to develop unilaterally new concepts or programs intended to involve other military departments.

The Air Force proceeded unilaterally with a concept and program of its own design without agreement from the Army, even though Army participation was essential. The Army did not approve the ground equipment needed to correlate with the airborne equipment purchased by the Air Force but instead is proceeding to develop a program of its own for this mission.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BETTS (at the request of Mr. GERALD R. FORD), for the remainder of this week and next week, on account of official business as U.S. delegate to the Interparliamentary Conference.

Mr. BYRNES of Wisconsin (at the request of Mr. GERALD R. FORD), for the remainder of this week and next week, on account of official business as U.S. delegate to the Interparliamentary Conference.

Mr. PIRNIE (at the request of Mr. GERALD R. FORD), for the remainder of this week and next week, on account of official business as U.S. delegate to the Interparliamentary Conference.

Mr. DULSKI (at the request of Mr. BOGGS), for the remainder of the week and Monday, September 25, on account of official business.

Mr. PUCINSKI (at the request of Mr. ZABLOCKI), for September 20 and 21, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BAKER) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. HALPERN, for 10 minutes, today.
Mr. BLACKBURN, for 10 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. HEINZ, for 10 minutes, today.
Mr. GERALD R. FORD, for 5 minutes, today.
Mr. EDWARDS of Alabama, for 5 minutes, today.

(The following Members (at the request of Mr. MAZZOLI) and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 5 minutes, today.
Mr. KLUCZYNSKI, for 5 minutes, today.
Mr. ALEXANDER, for 30 minutes, today.
Mr. ADDABBO, for 10 minutes, today.
Mr. TIERNAN, for 5 minutes, today.
Mr. CELLER, for 60 minutes, on September 21.
Mr. ASPIN, for 10 minutes, on September 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROOKS to revise and extend his remarks and include extraneous matter notwithstanding the cost is estimated by the Public Printer to be $467.50.

Mr. BROTZMAN, to revise and extend his remarks following those of Mr. STAGGERS on H.R. 11682.

Mr. RANDALL, to revise and extend his remarks on H.R. 15003 prior to the vote on the Bingham amendment at page 59 of the bill.

(The following Members (at the request of Mr. BAKER), and to include extraneous matter:)

Mr. SPRINGER in two instances.
Mr. JOHNSON of Pennsylvania.
Mr. VANDER JAGT.
Mr. WHITEHURST.
Mr. HOSMER.
Mr. WYMAN in two instances.
Mr. MINSHALL.
Mr. FRENZEL in three instances.
Mr. CHAMBERLAIN in three instances.
Mr. DELLENBACK.
Mr. BROYHILL of Virginia.
Mr. PRICE of Texas.
Mr. KYL.
Mr. ANDERSON of Illinois.
Mr. FRELINGHUYSEN.
Mr. BRAY in three instances.
Mr. SCHWENGEL.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous matter:)

Mr. JOHNSON of California.
Mr. CLARK.
Mr. DONOHUE.
Mr. BOLAND in three instances.
Mr. PODELL.
Mr. HARRINGTON.
Mr. CHARLES H. WILSON in 10 instances.
Mr. RARICK in three instances.
Mr. GONZALEZ in three instances.
Mr. VAN DEERLIN.
Mr. MORGAN.
Mr. NIX.
Mr. ROE in two instances.
Mr. WILLIAM D. FORD.
Mr. CORMAN.
Mr. ROYBAL in 10 instances.
Mr. O'HARA.
Mr. ROGERS.
Mr. JACOBS.
Mr. CASEY of Texas.
Mr. KOCH in two instances.
Mr. NICHOLS.

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. 750. An act to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

S. 1144. An act to authorize and direct the acquisition of certain lands within the boundaries of the Wasatch National Forest in the State of Utah by the Secretary of Agriculture; to the Committee on Interior and Insular Affairs.

S. 1911. An act to amend the Interstate Commerce Act to expedite the making of amendments to the uniform standards for evidencing the lawfulness of interstate operations and motor carriers; to the Committee on Interstate and Foreign Commerce.

S. 2501. An act for the relief of Daniel H. Robbins; to the Committee on the Judiciary.

S. 2762. An act to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the boundaries of the Cache National Forest in the State of Utah; to the Committee on Interior and Insular Affairs.

S. 3113. An act to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono County, Calif.; to the Committee on Interior and Insular Affairs.

S. 3256. An act to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex.; to the Committee on Interior and Insular Affairs.

S. 3452. An act to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees; to the Committee on the Judiciary.

S. 3466. An act to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Lone Peak Area in the State of Utah; to the Committee on Interior and Insular Affairs.

S. 3483. An act for the relief of Cass County, N. Dak.; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims Commission docket No. 326–I and for other purposes; and

S. 2575. An act for the relief of William John West.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 19, 1972, present to the President, for his approval, a bill of the House of the following title:

H.R. 7701. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Thursday, September 21, 1972, 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:

2351. A letter from the Administrator, Environmental Protection Agency, transmitting a modified table 3 of part II of the 1972 report on the economics of clean water, entitled "Survey Results of Estimated Construction Cost of Sewage Treatment Facilities Planned for the Period Fiscal Year 1972–76," requested by the Committee on Public Works; to the Committee on Public Works.

RECEIVED FROM THE COMPTROLLER GENERAL

2352. A letter from the Acting Comptroller General of the United States, transmitting a report on the need for the Department of Defense to improve its procedures for evaluating the reasonableness of petroleum pipeline rates; 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. BRADEMAS: Committee on House Administration. House Resolution 1087. Resolution to provide for the printing of a committee print entitled "Court Proceedings and Actions of Vital Interest to the Congress" (Rept. No. 92–1412). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Resolution 1113. Resolution to provide for certain printing for use of the Committee on Veterans' Affairs of the House of Representatives (Rept. No. 92–1413). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 679. Concurrent resolution to provide for the printing of additional copies of the report of the Commission on the Organization of the Government of the District of Columbia (Rept. No. 92–1414). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 681. Concurrent resolution to provide for the printing of 1,000 additional hearings entitled "Corrections" parts I through VI (Rept. No. 92–1415). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 687. Concurrent resolution providing for the printing of additional copies of parts I and II of hearings entitled "Discrimination Against Women" (Rept. No. 92–1416). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Joint Resolution 204. Joint resolution to authorize the preparation of a history of public works in the United States; with an amendment (Rept. No. 92–1417). Ordered to be printed.

Mr. CONYERS: Committee on the Judiciary. S. 3671. An act to amend the Administrative Conference Act; with amendments (Rept. No. 92–1418). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOLIFIELD: Committee on Government Operations. A report on the administration of the Freedom of Information Act. (Rept. No. 92–1419). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 15597. A bill to authorize additional funds for acquisition of interests in land within the area known as Piscataway Park in the State of Maryland (Rept. No. 92–1420). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 5838. A bill to designate certain lands in the Lava Beds National Monument in California as wilderness; with amendments (Rept. No. 92–1421). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 10655. A bill to designate certain lands in the Lassen Volcanic National Park, Calif., as wilderness; with amendments (Rept. No. 92–1422). 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 Mr. ERLENBORN:

H.R. 16738. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. FRASER (for himself and Mr. STEELE):

H.R. 16739. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. HALPERN:

H.R. 16740. A bill to improve the efficiency of the Nation's highway system, allow States and localities more flexibility in utilizing highway funds, and for other purposes; to the Committee on Public Works.

By Mr. HEINZ:

H.R. 16741. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on the discharge of pollutants; to the Committee on Ways and Means.

By Mr. ICHORD (for himself, Mr. ASHBROOK, Mr. DAVIS of South Carolina, Mr. THOMPSON of Georgia, Mr. SCHMITZ, and Mr. ZION):

H.R. 16742. A bill to amend section 4 of the Internal Security Act of 1950; to the Committee on Internal Security.

By Mr. MINISH:

H.R. 16743. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. MOSS:

H.R. 16744. A bill to amend section 278 of the Internal Revenue Code of 1954 to change the effective date for the provisions related to almond groves; to the Committee on Ways and Means.

By Mr. O'NEILL:

H.R. 16745. A bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts; to the Committee on Interior and Insular Affairs.

By Mr. QUILLEN:

H.R. 16746. A bill to amend chapter 34 of title 38 of the United States Code to restore entitlement to educational benefits to veterans of World War II and the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. RAILSBACK:

H.R. 16747. A bill to provide for the humane care, treatment, habilitation and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by Federal assistance, to establish State plans which require a survey of need for assistance to residential facilities to enable them to be in compliance with such standards, seek to minimize inappropriate admissions to residential facilities and develop strategies which stimulate the development of regional and community programs for the mentally retarded which include the integration of such residential facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16748. A bill relating to employment of inmates in Federal and District of Columbia penal and correctional institutions; to the Committee on the Judiciary.

By Mr. REID:

H.R. 16749. A bill to amend the Internal Revenue Code to provide income tax simplification, reform, and relief for small businesses; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin (for himself, Mr. KEMP, Mr. ROBISON of New York, Mr. HAMMERSCHMIDT, Mr.

ERLENBORN, Mr. CONTE, Mr. BELL, Mr. KEATING, Mr. MCKINNEY, Mr. MAZZOLI, Mr. BROWN of Ohio, Mr. FORSYTHE, Mr. CONOVER, Mr. BROWN of Michigan, Mr. REES, Mr. WARE, Mr. BUCHANAN, Mr. GUDE, Mr. RUPPE, Mr. PREYER of North Carolina, Mr. SIKES, Mr. CLEVELAND, and Mr. THONE):

H.R. 16750. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

By Mr. THOMSON of Wisconsin:

H.R. 16751. A bill to amend title 23 of the United States Code to provide for the Federal funding of land and easement acquisitions and the construction and improvement of necessary roads and scenic viewing facilities in order to develop a national scenic and recreational highway program; to the Committee on Public Works.

By Mr. BROYHILL of North Carolina:

H.R. 16752. A bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HORTON (for himself, Mr. UDALL, and Mr. COUGHLIN):

H.J. Res. 1305. Joint resolution to declare a U.S. policy of achieving population stabilization by voluntary means; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. REID presented a bill (H.R. 16753) for the relief of Cornelius S. Ball, Victor F. Mann, Jr., George J. Posner, Dominick A. Sgammato, and James R. Walsh, which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, September 20, 1972*

The Senate met at 8:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Reverend Father Gilbert V. Hartke, O.P., chairman, the speech and drama department, Catholic University of America, Washington, D.C., offered the following prayer:

Go home to your friends and tell them how much the Lord has done for you.—Mark 5: 19.

O Lord our God, we fail You through our sins. Lord, we easily make public confession of the sins of others. This we do because we are weak and need to place the root of our weakness in other than our self. Help us, Heavenly Father, to face our faults. Help us not to burden our brother by avoiding our responsibilities to You and to him, our neighbor. Lord, You came on earth and in 1,000 days taught my neighbor and me the centuries old lessons of contrition and compassion. Destroy, O Lord, we pray You, the ceaseless cycle of evil that holds us captive. Let sin die in us as the sin of the world died in Jesus Your Son. Through death to sin and no further shifting of responsibilities for our failings, may we be brother to each other and sons of God. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 19, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

There being no objection, the Senate proceeded to consider executive business.

AMBASSADORS

The PRESIDENT pro tempore. The clerk will state the nominations on the Executive Calendar.

The assistant legislative clerk read the nominations of Marion H. Smoak, of South Carolina, to the Acting Chief of Protocol for the White House, with the rank of Ambassador, and Christopher Van Hollen, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

RESCISSION OF ORDERS RECOGNIZING SENATOR HANSEN AND SENATOR EAGLETON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the special order granted to the distinguished Senator from Wyoming (Mr. HANSEN) for this morning be vacated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I also make the same request for the Senator from Missouri (Mr. EAGLETON).

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. SCOTT. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. BENTSEN) is recognized for not to exceed 15 minutes.

UNITED STATES-SOVIET GRAIN AGREEMENT

Mr. BENTSEN. Mr. President, I will discuss this morning the agreement the United States and the Soviet Union reached this past July 8 under which the Soviet Union was to purchase $750 million of assorted grains from the United States over a 3-year period.

During this discussion, I ask unanimous consent that my assistants, Mr. Gary Bushell and Mr. David Allen, be allowed the privilege of the floor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Initially, everyone greeted the news of this agreement with a great deal of enthusiasm, and I shared that enthusiasm with them, because we know this should benefit all of our people. Our farmers benefit because of the increased markets for their products. Our workers benefit through the increased number of jobs that result. Our consumers benefit because of the improvement in the state of our economy.

But, Mr. President, the thing that concerns me in this is the obvious disregard for the farmer and the way it has been handled in the Department of Agriculture. Some of the details I think threaten future trade. I want the details of this trade made public, and I want to know who has shown the lack of concern for the farmer in that Department.

Mr. President, the Soviet Union and a handful of huge international grain traders reaped great benefits from the United States-Russian grain deal. The U.S. farmer will, indeed, benefit in the long run with increased trade, but the trade conditions must be open and equitable and for the benefit of the producer as well as the large international grain trader.

In this deal the Soviet Union, at a time when her wheat crop was severely damaged by weather conditions, has handled Uncle Sam like the fairway barkers handled the city slicker who went to the country fair. Not only has Russia been able to obtain sorely needed wheat from this country, and in copious quantities, but she has been able to get it at bargain basement rates—rates that would have been made some of our old Yankee traders blush in embarrassment.