amendment to be proposed the question is on third reading of the bill.

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

The title was amended, so as to read: "A bill to authorize a Federal payment for the planning of a transit line in the median of the Dulles Airport Road and for a feasibility study of rapid transit to Friendship International Airport."

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BUCKLEY, BEALL, AND HRUSKA TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the recognition of the two leaders under the standing order tomorrow, the following Senators be recognized for not to exceed the time indicated, and each in the order stated. Mr. BUCKLEY, 15 minutes; Mr. BEALL, 15 minutes, and Mr. HRUSKA, until the hour of 9:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO SET ASIDE TEMPORARILY THE UNFINISHED BUSINESS IF CLOTURE MOTION FAILS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if the motion to invoke cloture fails on tomorrow, the unfinished business, the consumer protection bill, be laid aside temporarily, and remain in a temporarily laid-aside status until such hour as the distinguished majority leader or his designee determines.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATE TO RETURN TO THE CONSIDERATION OF H.R. 1 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the vote on the motion to invoke cloture tomorrow, if the motion to invoke cloture fails, the Senate return to the consideration of H.R. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow morning at 8:30 a.m., following a recess. After the two leaders have been recognized under the standing order, the following Senators will be recognized: Mr. BUCKLEY, 15 minutes; Mr. BEALL, 15 minutes, and Mr. HRUSKA, for not to extend beyond the hour of 9:15 a.m.

At the hour of 9:15 a.m. the Senate will proceed to the consideration of the unfinished business, the consumer protection bill, and the 1 hour for debate under rule XXII on the motion to invoke cloture on the consumer protection bill will begin running at 9:15.

At the hour of 10:15 the clerk will call the roll to establish a quorum, and when a quorum has been established, a yea-and-nay vote, which is mandatory under the rule, will occur. That should begin around 10:30 a.m.

If the motion to invoke cloture fails, the unfinished business will be laid aside temporarily and the Senate will return to the consideration of H.R. 1. Amendments will be in order. Yea and nay votes will occur. Tabling motions will be in order. Conference reports will be in order. Yea-and-nay votes may occur on any of these.

RECESS TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 8:30 a.m. tomorrow.

The motion was agreed to; and at 8:32 p.m. the Senate recessed until tomorrow, Thursday, October 5, 1972, at 8:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, October 4, 1972*

The House met at 12 o'clock noon.

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

Rend your hearts and not your garments, and turn unto the Lord your God, for He is gracious and merciful, slow to anger, and of great kindness.—Joel II: 13.

O God, our Father, send the power of Thy spirit into our minds and hearts as we wait upon Thee—that we who ask for love may receive it and receiving it live by it; that we who seek for light may find it and, finding it, follow it faithfully; and we who knock at the door may discover the way to life opened to us and, entering, walk in it all the days of our lives.

Bless these representatives of our people, the homes in which they live, the churches where they worship, the staffs who work with them, and this Nation they serve with all their hearts. Grant that by their dedication to Thee and their devotion to our country they may usher in a new day of freedom for all, justice by all, and good will in all. 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.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on October 2, 1972, the President approved and signed bills of the House of the following titles:

On October 2, 1972:

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes.

H.R. 10486. An act to make the basic pay of the master chief petty officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other armed forces, and for other purposes;

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes; and

H.J. Res. 135. Joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, 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. 16593. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes;

H.R. 16654. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes; and

H.R. 16754. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 16593) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Mc-

CLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. SYMINGTON, Mr. YOUNG, Mrs. SMITH, Mr. ALLOTT, and Mr. HRUSKA to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 16654) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. STENNIS, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. MCCLELLAN, Mr. COTTON, Mr. CASE, Mr. FONG, Mr. BOGGS, Mr. BROOKE, Mr. STEVENS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1475. An act to authorize the Secretary of the Interior to provide for the restoration, reconstruction, and exhibition of the gunboat *Cairo*, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 4018) entitled "An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes," agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JORDAN of North Carolina, Mr. BENTSEN, Mrs. EDWARDS, Mr. DOLE, and Mr. COOPER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3310. An act to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes.

The message also announced that Mr. BUCKLEY was appointed a conferee on the bill S. 1852 vice Mr. HANSEN.

CAMPAIGN EXPENDITURE EXPERT NOT SO EXPERT

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

Mr. O'NEILL. Mr. Speaker, in Monday's Washington Post there was an article by Morton Mintz, the Washington Post campaign expenditure expert.

I believe that Mr. Mintz is a fountain of misinformation. On page 1 of that article he says that I had received $15,000 from three executives of the American Shipbuilding Co. in Cleveland, Ohio. The truth of the matter is that I have some very close personal friends with that organization. The figure which I received was not $15,000, but rather $500 each, from the three of them, totaling $1,500.

I note that the Washington Post made a correction in a hidden part of its newspaper yesterday. I think it is cheap sensationalism, rather than factual reporting, to say that I received $15,000 from some business executives in another section of the country, insinuating that something has been wrong. This is inaccurate reporting on the part of Mr. Mintz.

In Tuesday's Post, the correction also makes notes of mistakes in the article concerning other Members. On page 2 of the article, it also says that O'NEILL has no opposition in the November 7 election. Well, I do have opposition in the November 7 election. This knowledge should have been acquired in the House Clerk's Office, and the Washington Post has failed to make that correction.

Mr. Mintz, as an expert on campaign expenditures, to me is a real fraud, and his entire column has so many inaccuracies in it that the Post really should have somebody go over any future article that Mr. Mintz writes.

CHANGING NAME OF CAPE KENNEDY BACK TO CAPE CANAVERAL

(Mr. FREY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FREY. Mr. Speaker, are you aware, after some 4 or 5 years of trying, the Senate passed a bill changing the name—the geographic name—of Cape Kennedy back to Cape Canaveral. This bill is presently stymied in the House. The people of Florida intend no disrespect to the memory of our beloved President, President Kennedy, by such legislation. In Brevard County we have the Kennedy Space Center and major airport as only two examples of instances where the Kennedy name is used. However, the name "Canaveral" goes back to 1533 and is as important to the people of Florida as is the name Cape Cod to the people of Massachusetts.

I have in my hands a bill to change the name Cape Cod to Cape Kennedy. Since stories have been released about this proposed bill to change the name of Cape Cod, we have received some indignant messages from the people of Massachusetts and its representatives. They have stated quite strongly that they do not want any such name change; that to do so would be unfair to the people of Massachusetts. It is obvious in not desiring the name change that the people of Massachusetts intend no disrespect to the memory of their native son, President Kennedy. I agree with the people of Massachusetts that the change of such a well-known geographic point would be wrong and unfair.

What we ask, very simply, is that the people of Florida be treated with the same fairness and consideration that the people of Massachusetts have requested. I did not intend to introduce the Cape Cod name change bill, but I intended to prove a point. This has been accomplished. We now hope that the bill to change the geographic point from Cape Kennedy to Cape Canaveral will be acted on immediately.

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

Mr. FRLY. I am glad to yield to the distinguished leader of the Florida delegation.

Mr. SIKES. I want to commend my distinguished friend for his comments.

The people of Florida feel very strongly about this, and the Florida delegation feels very strongly about it too. We honor the name and the memory and the contributions of President Kennedy. Nevertheless, we want to restore the accepted and historic name to Cape Canaveral. Four hundred and fifty years of history have gone into the making of the legends associated with this important historic area. The Senate has acted with little or no dissent. It is very disappointing that we have not been able to get similar action in the House. I sincerely hope what is said here will help to emphasize the need for action before this session of Congress comes to an end.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman.

Mr. BURKE of Massachusetts. I would like to inform the gentleman at the microphone that the memory of John F. Kennedy not only belongs to Massachusetts—it belongs to the Nation and the entire world. Yes, the memory of John F. Kennedy will be enshrined in the hearts of men and women forever.

Mr. FREY. I agree completely with the gentleman, and if he wants, he can change the name of Cape Cod to Cape Kennedy.

MONEYS REQUIRED FOR RESEARCH AND CLINICAL TREATMENT OF BLACK LUNG

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

Mr. HUNT. Mr. Speaker, it has come to my attention that the black lung bill that was passed through this House and through the Senate intended to help those unfortunate coal miners who have developed pneumoconiosis disease of their lungs. As it now stands the bill carries no moneys for research and development, nor does it carry any money for clinical treatment. I am hopeful that when the bill comes back to us that we will see fit to include in it certain moneys for the purpose of research and for clinical treatment of these men. They are unfortunate in that they have contracted this disease while working in coal mines and for companies who are no longer in business, and so they have no medical moneys to be treated with.

It is only a temporary project for the Federal Government of 2 years, after which time the States are then called upon to pick up the cudgel and carry on the project.

I say to my colleagues today, Mr. Speaker, I hope that when this comes back to the floor they will give it their earnest support and most certainly their heartfelt scrutiny.

ANNOUNCEMENT OF LEGISLATIVE PROGRAM

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

Mr. BOGGS. Mr. Speaker, I take this time to announce at the request of the chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. MILLS) that the following bills will be considered under unanimous consent before the end of the session, which will be, hopefully, next week:

H.R. 7175, equipment and repair for U.S. vessels;

H.R. 9520, private foundations savings provisions;

H.R. 12991, copying shoe lathes;

H.R. 14386, suspension of duty on copper;

H.R. 16299, accrued vacation pay;

H.R. 14628, tax laws applicable to Guam;

H.R. 15442, suspension of duty on istle;

H.R. 15795, suspension of duty on tanning and dyeing materials;

H.R. 16022, evidence of tax payment on containers of distilled spirits;

H.R. 16811, pass-along of social security benefit increase;

H.R. 16812, social work programs;

H.R. 16813, section 122 of the Internal Revenue Code;

S. 3001, Federal financing bank; and

H.R. 11158, income from sources within a possession of the United States.

The SPEAKER. Those will be brought up under unanimous consent?

Mr. BOGGS. That is correct.

AUTHORIZING ESTABLISHMENT OF NATIONAL GUARD FOR VIRGIN ISLANDS

Mr. FISHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3817) to amend titles 10, 32, and 37, United States Code, to authorize the establishment of a National Guard for the Virgin Islands, 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 9, after "2." insert "(a)".

Page 2, after line 4, insert:

"(b) Section 307 of title 32, United States Code, is amended by adding at the end thereof a new subsection as follows:

"'(g) Federal recognition may not be extended in the case of any member of the National Guard of the Virgin Islands in any grade above colonel.'"

Page 2, line 7, strike out "the words 'the Canal Zone'," and insert "the Canal Zone,".

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

There was no objection.

Mr. FISHER. Mr. Speaker, on November 1, 1971, the House of Representatives passed H.R. 3817 which would authorize the establishment of a National Guard unit in the Virgin Islands. Under existing law, the authority to organize National Guard units is limited to several States, the Commonwealth of Puerto Rico, the District of Columbia, and the Canal Zone. There is now no authority for a National Guard in the Virgin Islands. H.R. 3817 would grant such authority.

Recently the Senate acted on H.R. 3817 and amended the bill to preclude the Federal recognition of any officer of the Virgin Islands National Guard in a grade above colonel.

The proposed troop structure for the Virgin Islands National Guard totals only 399 and it is believed that no officer in a grade higher than colonel should be placed in command of this guard unit.

The Armed Services Committee, in a meeting on October 3, 1972, with a quorum being present directed the acceptance of the Senate amendment.

Mr. BRAY. Mr. Speaker, H.R. 3817 is a relatively simple bill. It would permit the organization of a National Guard in the Virgin Islands.

No statutory authority exists for the creation of one in the Virgin Islands at the present time and this bill grants this authority.

When a National Guard unit is established there, it will be in a position to render immediate assistance in times of disaster. At present the Virgin Islands disaster resources are limited. The islands themselves are separated by water and, in turn, are separated from their nearest source of aid—Puerto Rico—by approximately 100 miles of water.

Since the Virgin Islands lie in a so-called hurricane belt of the Atlantic and Caribbean, there is a continuing possibility of a national disaster. If the Governor of the Virgin Islands had a National Guard unit immediately available to him, it could aid in alleviating distress in restoring communications and other vital services.

In addition, although there have been no civil disorders of any magnitude in the Virgin Islands in the past, such disturbances have occurred on other islands in the Caribbean, which supply many of the labor force in the Virgin Islands, and the possibility of local disorders cannot entirely be disregarded.

The Virgin Islands police force approximately 350 in strength, is distributed among the islands of St. Thomas, St. Croix, and St. John. In the event of a major civil disturbance, the availability of the National Guard would significantly reduce the need to call upon Federal authorities for assistance.

There are no military garrisons of any size in or adjacent to the Virgin Islands. Three U.S. Army Reserve military police units, an aggregate strength of 69 members, are stationed in the Virgin Islands. These units are not subject to be ordered to active duty by the Governor. When this bill is enacted the Virgin Island authorities propose to seek the allocation of Army National Guard units consisting of one company to be stationed at St. Thomas, one company to be stationed on St. Croix, and a combined battalion and State headquarters on one of these islands.

The Senate amended the House-passed bill to prohibit the commanding officer of the National Guard in the Virgin Islands from holding a rank above that of colonel. I believe this is an entirely reasonable request and recommended that the bill as amended be favorably considered by this body.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

COMMEMORATING 200TH ANNIVERSARY OF DICKINSON COLLEGE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 90) commemorating the 200th anniversary of Dickinson College.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 90

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States extends its greetings and congratulations to Dickinson College, Carlisle, Pennsylvania, on the occasion of the observance and celebration by that institution of its two hundredth anniversary, and expresses its recognition of the contribution which Dickinson College has made to educational excellence, and its appreciation of the leadership role which many distinguished alumni of Dickinson have played in the life and affairs of this Nation.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

DESIGNATING NATIONAL BETA CLUB WEEK

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 251) to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week."

The Clerk read the title of the Senate joint resolution.

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

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 251

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week which begins on the first Sunday in March of each year as "National Beta Club Week", to recognize the National Beta Club for its dedication to the positive accomplishments of American youth and to encourage the furthering of its goals to promote honesty, service, and leadership among the high school students in America.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: On page 1, line 5, strike the phrase "of each year" and insert in lieu thereof "1973".

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To designate the week which begins on the first Sunday in March 1973 as 'National Beta Club Week'."

A motion to reconsider was laid on the table.

NATIONAL SOKOL U.S.A. DAY

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 1263) authorizing the President to proclaim October 30, 1972, as "National Sokol U.S.A. Day," 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 5, strike out "U.S.A."

Amend the title so as to read: "Joint resolution authorizing the President to proclaim October 30, 1972, as 'National Sokol Day'."

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

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I want to express my gratitude to my colleagues who unanimously passed on August 18 my bill, House Joint Resolution 1263, to designate October 30, 1972, as "National Sokol U.S.A. Day." As we all know Sokols have trained thousands of young people in gymnastics, and the contribution of Sokols is particularly significant this year in view of the fact that many young people who first received training in gymnastics in Sokol lodges across our Nation went on to participate in this sport at the Olympic games.

I am pleased to inform my colleagues that the Senate proceeded to consider this joint resolution and passed it on September 21 after amending the title to read: "Joint Resolution Authorizing the President To Proclaim October 30, 1972, as 'National Sokol Day.'"

It was the feeling of the other body that this amendment would broaden the scope of the bill and make it more comprehensive. I heartily concur in the Senate action and urge that the House of Representatives take action today to agree with the Senate amendment in order that the bill may be forwarded to the President for his signature.

Again, I appreciate the support my colleagues have already given me in this worthy endeavor to honor Sokol organizations across our Nation which are encouraging physical excellence through participation in gymnastics.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

NEWSPAPER WEEK AND NEWSPAPER CARRIER DAY

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1274) designating October 8 through 14, 1972, as "Newspaper Week" and October 14, 1972, as "Newspaper Carrier Day."

The Clerk read the title of the joint resolution.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 1274

Whereas it is an important part of freedom and democracy for people to be well informed about current events and matters that affect their lives, and

Whereas newspapers historically and traditionally have been the basic news medium for informing citizens of the United States in greatest detail, and

Whereas the Nation's more than nine thousand weekly and daily newspapers provide vital information of economic, educational, social, and political value to the citizens of the Nation, and

Whereas more than five million public and parochial school students annually receive instruction through newspaper in-the-classroom programs using newspapers as text material for many different subjects, and

Whereas the newspapers of the nation have donated much space for community and national service campaigns without charge, and

Whereas newspapers have always contributed to the cause of protecting consumers and improving consumer education and information, including rejection of much unacceptable and unreliable advertising, and

Whereas over six hundred thousand young men and women serve more than seventy million newspaper subscribers of the United States as independent, responsible junior business executives in delivering newspapers to homes and families, and

Whereas improved people-to-people communications and understanding through newspapers are keys to a better future for all citizens, and

Whereas newspapers are continuing to prove themselves to be the full information medium needed for a free and open society: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 8–14, 1972, be observed as Newspaper Week '72 and October 14, 1972, as Newspaper Carrier Day by the Congress of the United States of America on this ——— day of 1972.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: On pages 1 and 2, strike the entire preamble; and

On page 2, lines 3 through 6, strike everything after the enacting clause and insert in lieu thereof the following:

"That the President is authorized and requested to issue a proclamation designating the week beginning October 8, 1972, as 'Newspaper Week' and also designating October 14, 1972 as 'Newspaper Carrier Day,' and calling upon the people of the United States and interested groups and organizations to observe such events with appropriate ceremonies and activities."

The amendment was agreed to.

Mr. BROWN of Ohio. Mr. Speaker, the communications media has become one of the most important elements in the success of our representative Government. From the largest national dailies to the smallest village weekly, it is the Nation's newspapers which provide the basic news medium for informing citizens. Newspapers are the medium which supplies in the greatest detail the facts surrounding events, which give the most diverse interpretations of those facts, and which offer the widest range of ideas and opinions on the causes of those events. Newspapers today, more than any other form of communication, provide the broad two-way bridge between one group of citizens and another, between events, and between the people and their government leaders, whether close at hand or across the continent.

The evening newscast, which reduces the day's events to the equivalent of a column and a half of one-liners, has its place, as does the magazine treatise that analyzes in depth the great sweep of historic events. The average person, though, who wants to know more of what is happening today, and why, turns to his newspaper. If that newspaper clearly separates fact from opinion, provides diverse views, and is published in an easily understood format it will continue to be the most relied upon source of information in the country.

There are more than 9,000 weekly and daily newspapers throughout the Nation and over 600,000 young newspaper carriers serving more than 70 million subscribers, delivering newspapers to homes and businesses. All certainly deserve our national recognition and our thanks.

Therefore, I have introduced and support the intent of House Joint Resolution 1274 in authorizing the President to designate October 8–14, 1972, as "Newspaper Week" and October 14 as "Newspaper Carrier Day."

Thomas Jefferson once said:

Were the choice between government without newspapers, or newspapers without government, I'd choose the latter.

I would make the same choice today, and I think the overwhelming majority of Americans would, too.

The joint resolution 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.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measures just passed.

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

There was no objection.

RESTORING, RECONSTRUCTING, AND EXHIBITION OF GUNBOAT "CAIRO"

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1475) to authorize the Secretary of the Interior to provide for the restoration, reconstruction, and exhibition of the gunboat *Cairo*, and for other purposes, 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 bill.

The Clerk read the Senate amend-

ment to the House amendment, as follows:

Page 2, line 6, of the House engrossed amendment strike out "$4,500,000" and insert "$3,200,000".

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

There was no objection.

The Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1852, GATEWAY NATIONAL RECREATION AREA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, TAYLOR, JOHNSON of California, SAYLOR, and TERRY.

APPOINTMENT OF CONFEREES ON S. 141, FOSSIL BUTTE NATIONAL MONUMENT

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 141) to establish the Fossil Butte National Monument, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, TAYLOR, RONCALIO, SAYLOR, and SKUBITZ.

AMENDING MERCHANT MARINE ACT, 1936

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9756) to amend the Merchant Marine Act, 1936, as amended, 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 2, line 15, after "instruction" insert "or pollution treatment, abatement or control".

Page 3, line 7, after "paid" insert "by or for the account of the obligor".

Page 3, line 8, strike out "obligated to be paid" and insert "which the obligor is then obligated to pay".

Page 7, line 5, strike out "trade;" and insert "trade as defined in section 905 of this Act for purposes of title V of this Act;".

Page 9, line 10, strike out "and is to be carried on a vessel,".

Page 24, after line 5, insert:

"SEC. 8. This Act may be cited as the 'Federal Ship Financing Act of 1972.'"

Mr. GARMATZ. Mr. Speaker, title XI of the Merchant Marine Act of 1936, authorizes Government insurance of mortgages and loans made to finance the construction, reconstruction, and reconditioning of U.S.-flag vessels. The purpose of H.R. 9756 is to amend title XI to improve its responsiveness to the current needs of the shipping industry for investment capital, and to simplify the mechanics of issuing and marketing obligations under the program. H.R. 9756 passed the House on February 7, 1972.

The Senate made six amendments to the legislation, most of which are technical, clarifying, or conforming in nature.

The first Senate amendment amended revised section 1101(b), to clarify that pollution treatment, abatement, or control vessels are "vessels" for purposes of the act and qualify for assistance under title XI if they meet the other applicable requirements. This is a technical amendment.

The second and third Senate amendments amended revised section 1101(f), to clarify that only amounts paid or to be paid by or for the account of the obligor for construction, reconstruction, or reconditioning of a vessel are included in the definition of "actual cost." This conforms to the present statute and makes clear that, for example, amounts paid for construction-differential subsidy by the Government are not included in actual costs. These are technical amendments only.

The fourth Senate amendment amended revised section 1104(a)(1), to clarify that the words "foreign trade" are used in the more expansive sense of the section 905 definition with respect to title V relating to construction-differential subsidy. Thus, any vessel engaged in a foreign trade eligible for construction-differential subsidy under title V of the Merchant Marine Act, would also be eligible for financing guarantees under title XI. This is a clarifying amendment.

The fifth amendment is the only substantive amendment made by the Senate. The House-passed bill would have authorized a title XI guarantee of up to 87½ percent of the actual cost or depreciated actual cost of barges to be carried on vessels, but only 75 percent of such cost of other barges. Thereafter, representatives of the inland waterways operators argued that such a distinction would result in a competitive disadvantage for inland waterway barges in instances where they are in competition with barges on vessels. The Senate could find no persuasive reason in policy for this distinction, and amended the final proviso of revised section 1104(b)(2), to eliminate the distinction and put all such barges on an equal footing at the 87½-percent level. This amendment would not increase the number of barges eligible for title XI financing, but would permit guarantees of obligations with respect to a higher percentage of the actual cost or depreciated actual cost of a barge—87½ percent—as in the case of barges carried on a vessel. This amendment would not increase the aggregate amount authorized to be guaranteed under the title XI program.

The final Senate amendment is a new section 8 providing that the act may be cited as the "Federal Ship Financing Act of 1972."

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

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

A call of the House was ordered.

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

[Roll No. 405]

Abernethy	Evans, Colo.	Mikva
Abzug	Foley	Mitchell
Addabbo	Gallagher	Mollohan
Badillo	Giaimo	Murphy, N.Y.
Baring	Goodling	Nichols
Bell	Green, Oreg.	O'Konski
Bevill	Gross	Peyser
Bow	Gubser	Powell
Byrne, Pa.	Hagan	Purcell
Byron	Halpern	Rangel
Carey, N.Y.	Hawkins	Reid
Chisholm	Lloyd	Rhodes
Clark	Lujan	Rooney, N.Y.
Clay	McClure	Scheuer
Culver	McCormack	Schmitz
Davis, S.C.	McDonald, Mich.	Scott
Dowdy	McKevitt	Teague, Calif.
Dwyer	McMillan	Terry
Edmondson		

The SPEAKER. On this rollcall 375 Members have answered to their names, a quorum.

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

CONFERENCE REPORT ON H.R. 12652, COMMISSION ON CIVIL RIGHTS

Mr. CELLER. Mr. Speaker, I call up the conference report on the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, 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 New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1972.)

Mr. CELLER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

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

There was no objection.

Mr. CELLER. Mr. Speaker, I yield myself such time as I may consume.

On May 1 of this year, the House overwhelmingly suspended its rules and passed H.R. 12652.

As reflected in its title, the bill extends the life of the Civil Rights Commission, extends the jurisdiction of the Commission to embrace sex discrimination, and authorizes annual appropriations.

In passing the legislation on August 4—without a dissenting vote—the Senate accepted the bill in every detail save one. It reduced the appropriation authorizations for each of the fiscal years in which the Commission is to operate. The Senate also added to the bill nongermane material pertaining to a very important subject—the protection of executive branch employees and applicants against unwarranted invasions of their privacy.

The conference committee met on two occasions; on both occasions our discussion was lengthy, serious, and reasonable. Acting as reasonable men can be expected to act following a full and frank exchange of views, the House managers agreed to the Senate authorization figures, and the Senate managers agreed to recede from the Senate amendment which had added the nongermane material to the bill.

As reported by the conference committee, the bill authorizes the appropriation of $5½ million for fiscal year 1973 instead of $6½ million as originally provided by the House. Also, in place of the House authorization of $8½ million for each fiscal year from 1974 through 1978, the bill authorizes $7 million as provided in the Senate version.

In summary, the bill reported back by the conference committee is the same bill that passed the House last May, except for modest reductions in the appropriations authorizations.

On September 26, the Senate adopted the conference report. I urge similar action in the House so that this important legislation may be cleared to the President and promptly signed into law.

Mr. McCULLOCH. Mr. Speaker, in the last few days of my quarter century of service in this body, it gives me great satisfaction to see the life of the U.S. Commission on Civil Rights extended an additional 5 years and 5 months. As cosponsor of this legislation together with the distinguished chairman of the Committee on the Judiciary, I am pleased to tell the House that this bill, agreed to in conference, is almost identical to the bill that passed the House on May 1, 1972. The only difference is that the authorization ceiling has been lowered for fiscal year 1973 from $6.5 to $5.5 million and for the remaining 4 years from $8.5 to $7 million. I realize that this reduction may restrict some of the Commission's planned activities. This is unfortunate in view of the Commission's added responsibilities in the area of sex discrimination. However, I believe that the reduction should not hamper the Commission's primary responsibilities regarding denials of equal protection based on race, color, or national origin.

Since its inception in 1957, the Commission has been the conscience of the Nation. It has guided us in enacting landmark civil rights legislation in 1960, 1964, 1965, 1968, and 1970. But it is yet to be seen whether these laws remain only as cold tombstones of lifeless hopes or whether they breathe life into the ever-unfolding promise of equality for which this Nation stands.

We like to think that we, as a nation, have made progress. But we cannot overlook the fact that we have moved from a nation divided by region to a nation divided by race. A nation so divided cannot stand.

In the days ahead the challenge to America will come from within. Thus when our grandchildren look back to those days, they may well conclude that the few million dollars we spent to perpetuate the Commission were as important to our common good as the billions we spent on military defense.

Mr. CELLER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7378, COMMISSION ON REVISION OF APPELLATE COURT SYSTEM

Mr. CELLER. Mr. Speaker, I call up the conference report on the bill (H.R. 7378) to establish a Commission on Revision of the Judicial Circuits of the United States, 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 New York?

Mr. HALL. Mr. Speaker, reserving the right to object, before we wheel these conference reports through here too rapidly, I wonder if the distinguished chairman of the Committee on the Judiciary would like an opportunity, and I would be delighted to yield for that purpose, to explain to the House in what areas the House receded from its position on our relatively simple bill which passed the House for an amount of $50,000, and I understand it is now up to $270,000. We had a unique purpose as the bill passed the House to simply perform one function. Now I understand there is a dual function on the part of the Commission. Particularly Mr. Speaker, I would like to know from the distinguished chairman of the Committee on the Judiciary, my friend the gentleman from New York (Mr. CELLER), whether or not this Commission would come within the prospectus of the bill we passed in this House just last week on an Advisory Commission.

Mr. Speaker, I yield to the gentleman from New York for an answer.

Mr. CELLER. Mr. Speaker, I would like to make just a brief statement on the work of the committee of conference. Primarily the bill deals with redrawing the boundary lines of the Federal courts of appeals. Those lines have remained largely unchanged since the beginning of the century and they have been rendered obsolete by changes in population, growth in Federal litigation, and so on. We passed the bill overwhelmingly on May 15 (317 yeas; 25 nays). In passing the bill, the Senate struck all after the exacting clause and substituted a new text which expanded the scope of studies to be undertaken and extended the Commission's term to 2 years. The Senate amendment authorized various studies concerning substantive and procedural aspects of the Federal appellate process.

When the conferees met the House conferees emphasized that the thrust of the bill was to redraw the geographic lines and not to change any substantive law, so the Senate receded on the question of broad studies into appellate changes substantive law and accepted our view with reference to requiring the Commission to report back on circuit realinement in 6 months of the appointment of the ninth Commission member.

The conference substitute however, also authorizes the Commission to study and recommend changes in the structure and internal procedures of the courts of appeals and to file a second report within 15 months of the appointment of the ninth member.

The Congress would have to work its will on these recommendations.

Thus, the Commission is to report back to the Congress within 6 months as to proposed changes in geographic boundaries of the courts of appeals, but with reference to changes in structure and internal procedures in the appeals courts the Commission is given 9 more months to file a second report.

The House bill authorized appropriations up to $50,000. No special Commission staff was authorized. We felt that the Federal Judicial Center and the administrative office of U.S. courts could provide sufficient staffing, but now the Senate has added these changes to add burdens onto the Commission to look into the caseloads subject to our final approval.

The conference substitute authorizes the Commission to study and recommend changes in the structure and internal procedures of the appellate courts, and to file its report within 15 months of the ninth member's appointment.

Same limited a staff would have to be established for that purpose. The Senate amendment authorized appropriations of $370,000. The conference report reduced that to $270,000. The authorization in excess of the $50,000 contained in the House bill is needed to cover the expenses of the additional 9-month term of the Commission and of conducting the additional studies authorized by the conference report.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's explanation. I should like to recapitulate it and see if he will confirm that I am stating it correctly or not.

No. 1, we have receded, but only on the germane additions and the procedures of the other body.

Mr. CELLER. That is correct.

Mr. HALL. And, there is nothing in

this conference report which would be considered nongermane to the House-passed bill?

Mr. CELLER. That is correct. I was very, very careful on that. I have been careful with all these conferences to try to repudiate nongermane amendments, which to my mind often are obnoxious.

Mr. HALL. I agree, plus raids on personnel supergrades.

Second, Mr. Speaker, as I understand the conference report, we have yielded from 90 days for the Commission to act up to 15 months. We have yielded, to put it in another context, from a resolution of the other body's $370,000 down to $270,000; we in the House position have gone up from $50,000 to $270,000; but in return we get a review of Federal Court Appellate system in addition to the purpose assigned by the House-passed bill, which was only for review of the Judicial Circuit Court; is that correct?

Mr. CELLER. The gentleman is correct.

Mr. HALL. And in the opinion of the dean of the House, this is a worthwhile payoff?

Mr. CELLER. It is a meritorious bill.

Mr. HALL. Mr. Speaker, in view of the gentleman's explanation, I withdraw my reservation.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 28, 1972.)

Mr. CELLER (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 New York?

There was no objection.

Mr. CELLER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on the two conference reports just agreed to.

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

There was no objection.

SENATOR EDWARDS OF LOUISIANA

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I should like to note the presence on the floor of the House of the distinguished junior Senator from Louisiana, who happens to be also the wife of our former colleague, now the Governor of the State of Louisiana, Governor Edwards.

Senator EDWARDS is here with us. I wish she would take a bow.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

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

There was no objection.

AUTHORITY FOR SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES AND SUSPENSION OF REQUIRING A TWO-THIRDS VOTE FOR CONSIDERATION OF REPORTS FROM RULES COMMITTEE SAME DAY REPORTED, OCTOBER 10 AND REMAINDER OF WEEK

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1142 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1142

Resolved, That on Tuesday, October 10, 1972, and for the remainder of that week, it shall be in order (1) for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, Rule XXVII; and (2) to consider reports from the Committee on Rules as provided in clause 23, Rule XI, except that the provisions requiring a two-thirds vote to consider said reports on the same day reported is hereby suspended during that period.

The SPEAKER. The gentleman from Mississippi is recognized for 1 hour.

Mr. COLMER. Mr. Speaker, I yield the customary 30 minutes to the minority to my good friend the able and distinguished gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, this is a simple resolution which would give unto the Speaker the privilege of recognizing for suspensions next Tuesday and the rest of next week, and which also would waive the rule requiring resolutions from the Committee on Rules to lie over a day.

Mr. Speaker, all this resolution will do is to put into operation the rule on suspensions already provided in the House for the last 6 days of a session.

The House has under the guidance of the leadership—and I refer particularly to the distinguished Speaker of the House—the opportunity to adjourn this Congress sine die next week. I hope I will not be misunderstood when I say that due to my position as chairman of the Committee on Rules I have been lending my best efforts to that end; namely, the sine die adjournment of this Congress next week.

On a previous occasion here in the well of the House I observed that it was to the best interests of those who were interested in what I am trying to say as well as those who are not that this Congress adjourn. I repeat, it is in the best interests of the Members who are coming up for reelection November 7. They should have an opportunity to go back and visit with their constituents and present their cause as to why they should be reelected.

Of course, that does not affect some of us personally, including myself, but I am sure that the sitting Members and those who are running for reelection would desire this opportunity.

In pursuance of that, some weeks ago, by direction of the Committee on Rules and with the concurrence of the leadership, I addressed a letter to all chairmen of legislative committees and the ranking minority members that the Committee on Rules would not entertain applications for rules beyond September 25. That date has passed. The only exception that was made was in cases of genuine emergency or in procedural matters such as conference reports, et cetera.

So I repeat, Mr. Speaker, that this resolution is for the purpose of expediting the Nations business and in line with the prevailing rules of the House, that for the last 6 days this power of bringing up suspensions be given to the Speaker.

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

Mr. Speaker, when this matter was brought up in the Committee on Rules, we were in the chairman's office and just had brief consideration of it. My understanding was that we would be out or ready to get out by October 14, and that if we could not have a sine die resolution passed so we would know when the last 6 days would be, that this would help us expedite the situation. Accordingly, I supported it orally.

Today, however, after reading the colloquy that appeared in the CONGRESSIONAL RECORD of yesterday, at pages 33500 and 33501 between the majority leader, Mr. BOGGS, and the minority leader, Mr. GERALD R. FORD, and the gentleman from Missouri (Mr. HALL), I find out now that maybe I was a little bit careless in the Rules Committee, Mr. Speaker, in going along and waiving everything for suspensions for so many days. Possibly I should have confined myself to Tuesday, and then the next day bring in another one, with the thought in mind that we might have an adjournment.

But as it looks to me now, from what I hear—and I do not know any more than anybody else—I think we are going to have difficulty getting out of here by October 14, with all the work the other body has in front of it.

In any event, Mr. Speaker, I am not satisfied that I did the right thing when I brought this thing down here. Of course, I want to expedite the work and I want to get out of here, but I am a little bit concerned about waiving actually the two-thirds vote so we can bring rules in the same day on a majority vote. I think if it is important enough and the membership wants to do it, we can get a two-thirds vote.

So from that standpoint I think I may have gone a little bit too far.

In any event, Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield 5 minutes to the

distinguished minority leader (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, I regret that I am in the position where I am opposing this resolution. I regret it for a number of reasons.

The resolution goes too far. It is not in accordance with the prevailing rules of the House. I do hesitate to disagree with my dear friend from Mississippi (Mr. COLMER).

It is not in accordance with the rules of the House, as I read rule XXVII, because there is one important ingredient lacking; namely, a provision for a date certain for adjournment sine die. Rule XXVII says that there can be 6 days of suspensions providing the Congress has agreed to a date certain sine die, and that is not in the resolution in this case.

So this resolution is not in accordance with the rules of the House; it is an exception to the rules of the House. I think it is a bad precedent. Therefore I urge its defeat.

I have sought to work with the Speaker and the Democratic majority leader to expedite the business of this Congress in this session and I think parenthetically in other sessions. I have suggested—and I reiterate it now—that if we could agree, I certainly would strongly urge 1 day next week, a date certain, Tuesday preferably, for a suspension day so that this list of suspensions that we were unable to complete last Monday could be considered. If toward the end of the week we found that there was a need and a necessity for another day of suspensions, I would cooperate with the Speaker and the Democratic majority leader, but to give carte blanche, unlimited authority for 5 days without a date certain for adjournment I think is going too far.

I know the Speaker is not going to abuse the privilege, but he is under tremendous pressure. The net result of that pressure might be that the ordinary procedures that we follow and use for the consideration of legislation will be violated. For example, we will not have a rule so that a bill can be considered in a regular way where amendments can be offered. Everybody in this Chamber knows that under suspension of the rules you get 40 minutes of debate with no opportunity to offer amendments. This is not the way to consider controversial or complicated legislation.

I respectfully suggest that if you take a look at this list of suspensions which we were given for this week I honestly think there are some important proposals there that at least deserve an opportunity for the amending process to work. But under the suspension of the rules you are precluded from that opportunity. That opportunity is just eliminated by this procedure.

For that reason, if for no other reason, we ought to be a little hesitant in establishing a new precedent here where, without a date certain for adjournment sine die, we give authority for five full days of suspensions. I, for the life of me, just do not see why under these circumstances such an unusual and unprecedented authority has been presented to the House here today. The Parliamentarian tells me that back in the thirties and forties this was done. I was not here in those days, but to the best of my recollection it has never been done in 24 years where the House did not follow rule XXVII, which says that you can have suspensions for 6 days once you establish a date certain for adjournment sine die.

Mr. SNYDER. Will the gentleman yield for a question?

Mr. GERALD R. FORD. I will be very glad to.

Mr. SNYDER. If this resolution were adopted, it would not preclude other suspensions from being added that were not on that list and which we do not have notice of, would it? They can add anything they want to. Is that not right?

Mr. GERALD R. FORD. As I understand the suspension procedure, any bill reported out by any committee would be eligible for suspension on the request of the chairman of the committee or a member of the committee, if so directed, and the Speaker recognized that person for that purpose.

Mr. SNYDER. Irrespective of whether or not it is on that list?

Mr. GERALD R. FORD. That is correct; it is wide open.

I yield 5 additional minutes to the gentleman from Michigan has expired.

Mr. SMITH of California. Mr. Speaker, I yield 5 additional minutes to the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, I would like to ask the distinguished chairman of the Committee on Rules a technical question on the intent of the resolution that has arisen. Would the distinguished chairman of the Committee on Rules interpret some language in the resolution because there is, on our side, at least, some uncertainty.

Do I understand that by this resolution you do not obviate the requirements of a two-thirds vote on any suspension?

Mr. COLMER. If the gentleman will yield, it is the understanding of the chairman of the Committee on Rules, and I believe of the Committee on Rules itself, there is nothing in the resolution that is contrary to the fact that on these votes on these suspensions that the two-thirds approval would be required.

Mr. GERALD R. FORD. Let me ask the gentleman one other question, which is: According to the proposed resolution, there is an exception that any rule reported by the Committee on Rules can be brought up the same day the rule is approved by the committee without the requirement of a two-thirds vote? Is that correct?

Mr. COLMER. That is correct.

Mr. GERALD R. FORD. But that is the only exception to the two-thirds requirement?

Mr. COLMER. That is right.

Mr. GERALD R. FORD. Mr. Speaker, with real regret I oppose—and I oppose very strongly—this resolution, because I think it is opening the barn door to abuse; it is a new precedent that in my judgment at least destroys the intent of rule XXVII and, furthermore, precludes the orderly and proper consideration of some vital controversial legislation through the amending process.

For those reasons, Mr. Speaker, I vigorously oppose this resolution.

Mr. COLMER. Mr. Speaker, will the gentleman yield further?

Mr. GERALD R. FORD. Of course I will yield.

Mr. COLMER. Mr. Speaker, I am confident that the gentleman from Michigan, the distinguished and able leader, and my good friend, finds himself in the same position that I find myself, namely, that we have an urgent desire to adjourn this Congress next week. Now, that being the case, would not the adoption of this resolution be the best way to achieve that objective? It seems to me that if we dillydally along here for several more days that we are going to find ourselves with a big logjam of legislation, and the urgency and the pressure will be upon the Speaker, as well as upon your good self, to continue on into the next week, and maybe longer.

My purpose, I repeat, and my interest all along has been, for the benefit of the membership and, I repeat, for the country, is to get this Congress adjourned, and this is a means to that end.

Mr. GERALD R. FORD. Mr. Speaker, let me respond to my dear friend in this way. I have heard that some people, who even more vigorously than I do oppose this resolution, say that the adoption of this resolution could very well extend and not cut back the date for adjournment.

I think the gentleman from Mississippi can understand just how that process works. I do not approve of it. I know some people who vigorously oppose this resolution, more vigorously than I, who might hinder the adjournment by using any and all parliamentary procedures.

Let me just make one other observation.

I have been talking to some Members of this body about some of the bills that I have seen on this list, some of the bills that are anticipated will be submitted for suspension under this resolution, and in more than one instance the individual tells me, "Well, this bill is not going to go any place. We will go to conference, and it will never get out of conference." That has happened already and will happen, so why have this resolution?

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

Mr. SMITH of California. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. GERALD R. FORD. I say again why go through this unprecedented process which, in my opinion, is establishing a bad precedent and which, in addition, is a poor way to consider vital legislation.

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

Mr. GERALD R. FORD. Surely I yield to the gentleman.

Mr. COLMER. As has been pointed out, as the gentleman himself pointed out, this is not unprecedented, and if this resolution is adopted, it would merely advance what the gentleman says he wants —which is a sine die adjournment. In other words, if you delay the sine die adjournment into next week, then you do not get the provision of the 6 days that the existing rules provide for.

Mr. GERALD R. FORD. Let me respond to that. Why does not the House of Representatives pass an adjournment resolution with a sine die adjournment date of October 14 and send it to the other body and put them on the spot? That is the minimal we should do—the very minimal. We have not taken that initiative. We certainly ought to do that.

Let me add this comment if I might.

Under the rules of the House we have 2 days a month where you can have suspensions. By this resolution you are giving 5 suspension days in 1 week, without the requirement of a date for adjournment sine die. I think that is going much too far, to give 5 unlimited days of suspensions without meeting the rules and requirements of rule XXVII.

Mr. COLMER. Mr. Speaker, will the gentleman yield further?

Mr. GERALD R. FORD. I am glad to yield to the gentleman.

Mr. COLMER. Is that not exactly what you would be doing if you already had agreement for sine die adjournment? You would be given 6 days for suspensions under the existing rule.

Mr. GERALD R. FORD. Of course. And I would be delighted if the House would take the initiative and put the burden on the other body to respond. Of course, I would favor that, and so would the gentleman from Mississippi.

Mr. COLMER. And I would support such a resolution.

Mr. Speaker, I yield 5 minutes to the able and distinguished majority leader, the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker, the distinguished Chairman of the Committee on Rules, in my opinion, has answered adequately and completely the arguments advanced by the distinguished minority leader.

He also answered the argument that this would establish a precedent. Now, the minority leader simply has not examined the record. If I may have the attention of the minority leader for a moment, let me say that this Congress has adopted this procedure on many occasions in the past without the inclusion of the sine die provision. As a matter of fact, it did it in the 80th Congress, which was a Republican Congress. It did it in the 84th Congress. It did it in 1959 by unanimous consent. It did it in the 86th Congress. The gentleman has been a Member of all those Congresses. It did it in the 85th Congress.

The precedent has well been established, not once, but many times. All I have done is research recent Congresses. I am sure that had I gone back further, I would have found many other examples.

The gentleman refers to rule XXVII. One of the fundamental prerogatives and powers of the Committee on Rules is to suspend the rules and to change the rules if so required to expedite and facilitate the business of this body. Certainly, as the distinguished Chairman, the gentleman from Mississippi, argued, by including a sine die as part of the reasons, we would not limit the power of the Speaker to 5 days; we would give him 6 days. We would give him 1 day more than the possible 5 days asked for in this proposed resolution.

We are responsible legislators, I think. One of the things that seems to me to constitute responsibility is to operate in the realm of the possible. Maybe it would make us look very heroic and look as though we were somehow better than the other body to adopt a meaningless resolution and send it over there and let it sit on the desk. Then come next week the business of this body would grind to a halt, and the prospect of any adjournment or recess, or whatever may come next Saturday night, would be out the window. There would be no chance whatsoever. That is what the alternative is here.

What is the legislative situation? Monday is a national holiday; it is Columbus Day. The distinguished gentleman from Missouri on yesterday objected to carrying over the District day from Monday to Tuesday. That means either we may have to have another District day, because there are two District bills that have to be considered—and what that means we would have to be here beyond next Saturday night—or it means we will have to put those District bills down for suspension during the balance of the week.

The gentleman from Michigan, my dear friend (Mr. GERALD R. FORD) is quite correct that some of these suspensions may not pass the Senate. They may not pass the House. Some of them did not pass on Monday last. But it is the duty of the leadership when a committee chairman asks that a bill be put on suspension, that it be given very serious consideration to be put on the suspension calendar. So far as I know, only one of these bills which was placed on the calendar and published in the whip notice and in the RECORD has been postponed.

The SPEAKER. The time of the gentleman from Louisiana has expired.

Mr. COLMER. I yield the gentleman an additional 5 minutes.

Mr. BOGGS. On Monday last we passed one of the bills on the Consent Calendar. We only considered six other bills, some of which passed, some of which did not. Some of these bills may not be passable—but most of them are. Some of these bills may possibly serve some particular section of the country, but many others, I would say to my dear friend, the gentleman from Michigan, have been requested by the administration. Furthermore there is no suspension of the two-thirds requirement. They have to be approved by two-thirds or they fail.

The only thing that is different at all here is the fact that we are practical enough not to include in the resolution a provision for sine die adjournment which would nullify what we seek to do; namely, consider the rest of the legislation before the House, hopefully adjourn the Congress next Saturday night—if not adjourn, then possibly devise a method whereby the House Members would be relieved of duties for the rest of this session or most of the session, and let the Members go home and campaign and do their business. That is what is involved here.

I might say and we will assure Members we hope to dispose of most of these suspensions in 1 or 2 days so that we would not have 25 or so suspensions coming up on 1 day. We would hope to work in an orderly fashion. But in truth and in fact we would be operating exactly like we would be operating were we adjourning sine die on Saturday night. Unless the leadership has that authority, take my word for it, forget about any hope of any adjournment next week.

Mr. SMITH of California. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker, I was present in the Rules Committee on the day that this particular resolution (H. Res. 1142) was reported, and I certainly can testify for myself, and I think these remarks have already been made by the distinguished ranking minority member of the committee, the gentleman from California (Mr. SMITH), that implicit in our minds when this resolution was presented and when it was adopted was that we were going to adjourn on October 14, 1972. I think a reading of this resolution makes it clear that this resolution is an exception to the rules of the House, because it says, "notwithstanding the provisions of clause 1, rule XXVII."

So let me at this point try to propose what I think is a reasonable compromise, and I do not think that there is any desire here for partisan advantage. We are trying to do two things, as I see it. We are trying, first, to avoid in the closing days of this session setting up an undesirable precedent of some kind that may come back to haunt the future leaders of this House, be they Democrat or Republican; and we are trying, second, to expedite the business of this Congress and proceed toward a sine die adjournment.

Let me suggest that we do this: That when the previous question is ordered, we vote down the previous question, and if that can be accomplished, then I would propose to offer an amendment, if recognized, to this resolution which would simply strike out on line 1 the two words "and for" and on line 2, the words "the remainder of that week."

In other words, it would then read that it would be in order on the 10th of October, on Tuesday next, to consider under a procedure involving suspension of the rules any measure that may be called up at that time by the distinguished Speaker. But we can vote on those bills. We can get them out of the way, and then we can consider at that time if it is necessary in view of the volume of legislation that may or may not then still be pending, whether we should then go ahead and adopt a further resolution providing for further days on which we would consider matters under suspension of the rules.

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

Mr. ANDERSON of Illinois. I yield to the distinguished majority leader.

Mr. BOGGS. Mr. Speaker, I might inform the gentleman on Tuesday next—and, of course, the program has not been finalized—there are two very vital measures that are scheduled and certainly vital to the administration, one of which is highly controversial and that is the extension of the debt ceiling, and the other is the conference report on revenue sharing. For the gentleman to suggest we have 1 day, next Tuesday, would mean that at about 6 p.m. the leadership would have to be prepared to call up 40 suspensions. I would say that the gentleman is not making a very good suggestion.

Mr. ANDERSON of Illinois. In view of the information the distinguished majority leader has now provided the House, let me say that I would be perfectly happy then to amend the suggestion which I have just offered, and have the resolution provide that on Wednesday, October 11, 1972, we consider these matters under suspension.

That would certainly give us the opportunity to handle what the majority leader has correctly described as some very vital legislation on Tuesday. I would be very pleased to make that change.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. I think the gentleman's offer of an amendment is the appropriate way to resolve this impasse. The gentleman from Louisiana, the distinguished majority leader, has indicated that they do not plan any suspensions on Tuesday, so let us be flexible. Let me suggest if we defeat the previous question, we could have one of two things happen:

We could either have an adjournment resolution which would make all the previous 6 days eligible, or we could be equally flexible and pick another day plus October 10 or 11 if the House wanted to work its will.

Mr. ANDERSON of Illinois. Mr. Speaker, I think the gentleman has very effectively summarized the situation. I hope, therefore, that the Members on both sides of the aisle will join in doing what he has suggested.

Mr. BOGGS. Will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to the distinguished majority leader.

Mr. BOGGS. I did not say that on Tuesday there will be no suspensions considered. I said that there was a very heavy legislative program and time would be very limited for suspensions.

It very well may be that the debt ceiling bill will take less time than some of us anticipate; I do not know. The point is, what the gentleman is seeking to do is to limit this authority to 1 day. I am not in a position to say that 1 day is adequate.

Mr. ANDERSON of Illinois. Let me say in response that I think the distinguished minority leader (Mr. GERALD R. FORD) has already demonstrated that the minority is perfectly willing to reconsider this matter if there is still a considerable volume of business that needs to be transacted under suspensions of the rules.

We can consider another resolution of this kind on Wednesday of next week. I think he made that quite clear.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. The majority leader made reference to the fact that we have so much work to do. I would like to ask him if we have anything scheduled for Friday, Saturday, or Monday. Those are three good working days. I think we could get in much of this legislation which is so pressing at this particular time.

Mr. ANDERSON of Illinois. I yield to the majority leader for reply.

Mr. BOGGS. We have a full schedule for tomorrow; we may have a schedule for Friday. I am not prepared to answer that at this time.

We have no business for Saturday; we have no business for Monday. We are committed, we have been committed to the observance of the national holiday honoring Christopher Columbus, and we intend to stand by that commitment.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. ANDERSON of Illinois. Yes.

Mr. GERALD R. FORD. Is it possible that we could call up the debt limit bill on Friday? I understand it has been reported. That would be very helpful.

Mr. BOGGS. The debt ceiling bill will not be called up until next week.

Mr. ANDERSON of Illinois. Mr. Speaker, let me in conclusion say that I hope the Members will vote down the previous question.

Mr. SMITH of California. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Speaker, certainly the suggestion made by our colleague the gentleman from Illinois (Mr. ANDERSON) has merit. There is still violence in the remainder of House Resolution 1142 in that it suspends the provisions requiring two-thirds vote to consider reports of the Committee on Rules on the same day. That suspends also from Tuesday through the balance of the week, that ordinary rule and requirement.

Mr. Speaker, this is obviously a squeeze play. One could easily call it an unblemished power-grab. I have already said in an alert sounded yesterday—page 33501, CONGRESSIONAL RECORD—that it is a device to expedite the questionable amount of legislation, some of which may be good and urgent, but much of which adds to the taxpayer's burden, or our socialization.

But, I would like to point out to all of those assembled here that there is a much deeper, underlying principle involved here than just the immediate resolution or the immediate power-grab.

That is, Mr. Speaker, it does violence to the representatives process.

Yesterday I was accused by calloused Members of castigating them. So be it. If I could accomplish anything toward saving the representative process by riding with roweled spurs, I would castigate even deeper, because I have been here long enough to see the rights of the individual elected legislator eroded away by such power-grabs, and as we scramble to protect ourselves with fewer and fewer protective rules of procedure, then we must resort to castigation, if that is a proper word and be necessary in a leadership that cannot say "no." I have served for years as member and chairman of the minority objectors on the Consent Calendar. Thus one must do his homework ahead of time, know the rules of procedure; and, incidentally, expedites much more legislation than is held in abeyance.

I would not refer to the leadership all the way from A to Z, because that might be misconstrued in these days. If I were going to refer or point with shame, I'd use the Greek terms from Alpha to Omega which I believe would then be acceptable.

But be that as it may, we are being shortsighted in seeking adjournment at the expenses of opening the floodgates to legislation, needed or otherwise, by undue process or even worse by lack of process, and no matter how thin we spread it or rationalize it, this is exactly what we are doing.

If we are trying to expedite adjournment sine die, this is a poor way to approach the problem. The distinguished minority leader has more than adequately exercised this, and the alternatives.

I ask all Members to at least vote down the previous question. I ask all Members to accept from day to day the making of suspensions in order, if we must do that. But most of all I would adhere to the rules of the House and make a sine die commitment firm, send it to the other body and hope they pass it, and then use the 6-day suspension period provided in the rules and memorials. If done thusly you will hear not one further chirp from this old bird—except individual bill opposition, of course.

Why do I believe this should be voted down out of hand, barring the voting down of the previous question? I would offer as a brief reference for Members page 32814, of the RECORD for Thursday September 28, 1972, in the third column, a statement that there would be considered on Tuesday next the Fair Labor Standards Act as the first order of business following the reading of the Journal.

Members all know what happened to the program and sequence yesterday. It was the last thing that was considered on the floor of the House.

With this kind of leadership, who needs friends? I say, let us vote down the previous question. Let us protect the morals and the mores of the House. Let us protect the rules of procedure of the House. Let us protect representative government.

Mr. COLMER. Mr. Speaker, I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, the scenario has been the same for the past 8 years in which I have served in this body. As usual, the legislation piles up as the pressures to adjourn increase. This results in the leadership taking extraordinary steps to push through legislation in a totally undeliberative manner.

This year is no exception. With an unrealistic suspension calendar last

Monday that contained 46 pieces of legislation, it should come as no surprise that the House was only able to conclude action on six of these bills. We are told that we are in a time crisis, despite the fact that the schedule pursued since the Labor Day recess can only be described as leisurely. Buried in this long list of unfinished legislation, we are told, are many items of critical importance which must be acted upon before we can responsibly move for adjournment. This of course puts us again in the traditional time bind.

Thus, we are presented with House Resolution 1142, to suspend the rules and waive the rule requiring a two-thirds majority for the consideration of all remaining consent legislation that the leadership sees fit to bring before us. This request is made and yet no date has been set by this body for recess or adjournment, nor has even a firm promise of a date certain been proposed.

And what about the real unfinished business of the 92d Congress? Where is the comprehensive health insurance program which has been languishing in committee? What about the minimum wage where we cannot even get enough votes to send the bill to conference, even though it has been passed by this House? What ever happened to no-fault insurance? When will we act to stop the madness in Southeast Asia? Where are these and a host of other measures which would make life a little better for all of our citizens? While we squabble over some of the less important measures, our people continue to suffer.

Perhaps we would be just as well off to adjourn for this Congress as to rush through the remaining business without careful and sober consideration of each matter now pending. Then those of us who are fortunate enough to return for the 93d Congress can renew our consideration in a more deliberate and thoughtful manner.

Mr. COLMER. Mr. Speaker, I should like, in final conclusion, if I may have the attention of Members, to emphasize what I said at the beginning. I find myself not too happy that, at this late date, there has been so much controversy about this resolution, a resolution that was unanimously reported out of the Committee on Rules.

I merely wanted to say, Mr. Speaker, that I find myself in accord with much of what has been said, but the objective is still good. I would hope that the leadership, my leadership—the Democratic leadership—would, after this resolution is passed—and I hope it will be passed—offer a sine die adjournment resolution and send it over to the other body.

And now, the one point on which I differ with my friend from Louisiana, the majority leader, is that this would serve no purpose; it would just go over there and die. I have an entirely different reaction to that, and that is this: That if such a resolution were passed and sent over there, it would be a powerful argument for that body to get busy and pass a similar resolution and adjourn this Congress.

Mr. Speaker, I urge the adoption of this resolution.

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

The SPEAKER. The question is on ordering the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 214, nays 171, not voting 45, as follows:

[Roll No. 406]

YEAS—214

Abbitt	Fraser	Obey
Abourezk	Fulton	O'Hara
Abzug	Fuqua	O'Neill
Adams	Garmatz	Passman
Alexander	Gaydos	Patman
Anderson, Tenn.	Gibbons	Patten
Andrews, Ala.	Gonzalez	Pelly
Annunzio	Grasso	Perkins
Ashley	Gray	Pickle
Aspin	Griffin	Pike
Aspinall	Griffiths	Poage
Badillo	Halpern	Podell
Barrett	Hamilton	Preyer, N.C.
Begich	Hanley	Price, Ill.
Bennett	Hanna	Pryor, Ark.
Bergland	Hansen, Wash.	Pucinski
Biaggi	Harrington	Purcell
Bingham	Hathaway	Randall
Blanton	Hays	Rangel
Blatnik	Hechler, W. Va.	Rees
Boggs	Helstoski	Reuss
Boland	Hicks, Mass.	Roberts
Bolling	Hicks, Wash.	Rodino
Brademas	Holifield	Roe
Brasco	Howard	Rogers
Brooks	Hull	Roncalio
Broyhill, Va.	Hungate	Rooney, Pa.
Burke, Mass.	Ichord	Rosenthal
Burleson, Tex.	Jarman	Rostenkowski
Burlison, Mo.	Johnson, Calif.	Roush
Burton	Jones, Ala.	Roy
Byrne, Pa.	Jones, Tenn.	Roybal
Cabell	Karth	Runnels
Caffery	Kastenmeier	Sarbanes
Carney	Kazen	Scheuer
Casey, Tex.	Kee	Seiberling
Celler	Kluczynski	Shipley
Chisholm	Koch	Sikes
Chappell	Kyros	Sisk
Clark	Landrum	Slack
Collins, Ill.	Leggett	Smith, Iowa
Colmer	Link	Staggers
Corman	Long, La.	Stanton, James V.
Cotter	Long, Md.	Steed
Curlin	McFall	Steele
Daniels, N.J.	McKay	Stephens
Danielson	Macdonald, Mass.	Stokes
Davis, Ga.	Madden	Stratton
de la Garza	Mahon	Stubblefield
Delaney	Mailliard	Sullivan
Dellums	Mann	Symington
Denholm	Martin	Taylor
Dent	Mathis, Ga.	Teague, Tex.
Diggs	Matsunaga	Thompson, N.J.
Dingell	Mazzoli	Tiernan
Donohue	Meeds	Udall
Dorn	Melcher	Ullman
Dow	Metcalfe	Van Deerlin
Downing	Miller, Calif.	Vanik
Dulski	Mills, Ark.	Vigorito
Eckhardt	Minish	Waggonner
Edwards, Calif.	Mink	Waldie
Eilberg	Mitchell	White
Evins, Tenn.	Monagan	Whitten
Fascell	Montgomery	Wilson, Charles H.
Fisher	Moorhead	Wolff
Flood	Morgan	Wright
Flowers	Moss	Yates
Foley	Murphy, Ill.	Yatron
Ford, William D.	Natcher	Young, Tex.
Fountain	Nedzi	Zablocki
	Nix	

NAYS—171

Anderson, Calif.	Brinkley	Clancy
Anderson, Ill.	Broomfield	Clausen, Don H.
Andrews, N. Dak.	Brotzman	Clawson, Del
Archer	Brown, Mich.	Cleveland
Arends	Brown, Ohio	Collier
Ashbrook	Broyhill, N.C.	Collins, Tex.
Baker	Buchanan	Conable
Belcher	Burke, Fla.	Conover
Betts	Byrnes, Wis.	Conte
Biester	Camp	Conyers
Blackburn	Carlson	Coughlin
Bray	Carter	Crane
	Cederberg	Daniel, Va.
	Chamberlain	
Davis, Wis.	Jonas	St Germain
Dellenback	Jones, N.C.	Sandman
Dennis	Keating	Satterfield
Derwinski	Keith	Saylor
Devine	Kemp	Scherle
Dickinson	King	Schneebeli
Drinan	Kuykendall	Schwengel
Duncan	Kyl	Scott
du Pont	Landgrebe	Sebelius
Edwards, Ala.	Latta	Shoup
Erlenborn	Lennon	Shriver
Esch	Lent	Skubitz
Eshleman	McClory	Smith, Calif.
Findley	McCloskey	Smith, N.Y.
Fish	McCollister	Snyder
Flynt	McCulloch	Spence
Ford, Gerald R.	McDade	Springer
Forsythe	McEwen	Stanton, J. William
Frelinghuysen	McKevitt	Steiger, Ariz.
Frenzel	McMillan	Steiger, Wis.
Frey	Mallary	Talcott
Galifianakis	Mathias, Calif.	Thompson, Ga.
Goldwater	Mayne	Thomson, Wis.
Green, Pa.	Michel	Thone
Grover	Mikva	Vander Jagt
Gubser	Miller, Ohio	Veysey
Gude	Mills, Md.	Wampler
Haley	Minshall	Ware
Hall	Mizell	Whalen
Hammer-schmidt	Mosher	Whalley
Hansen, Idaho	Myers	Whitehurst
Harsha	Nelsen	Widnall
Harvey	Pettis	Wiggins
Heckler, Mass.	Pirnie	Williams
Heinz	Powell	Wilson, Bob
Henderson	Price, Tex.	Winn
Hillis	Quie	Wyman
Hogan	Quillen	Wyatt
Horton	Railsback	Wydler
Hosmer	Rarick	Wylie
Hunt	Riegle	Young, Fla.
Hutchinson	Robinson, Va.	Zion
Jacobs	Robison, N.Y.	Zwach
Johnson, Pa.	Rousselot	
	Ruth	

NOT VOTING—45

Abernethy	Gettys	Mollohan
Addabbo	Giaimo	Murphy, N.Y.
Baring	Goodling	Nichols
Bell	Green, Oreg.	O'Konski
Bevill	Gross	Pepper
Bow	Hagan	Peyser
Byron	Hastings	Reid
Carey, N.Y.	Hawkins	Rhodes
Clay	Hébert	Rooney, N.Y.
Culver	Lloyd	Ruppe
Davis, S.C.	Lujan	Schmitz
Dowdy	McClure	Stuckey
Dwyer	McCormack	Teague, Calif.
Edmondson	McDonald, Mich.	Terry
Evans, Colo.	McKinney	
Gallagher		

So the previous question was ordered.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Bow against.

Mr. Mollohan for, with Mr. Goodling against.

Mr. McCormack for, with Mr. Rhodes against.

Mr. Nichols for, with Mr. Hastings against.

Mr. Murphy of New York for, with Mr. Lujan against.

Mr. Reid for, with Mr. McClure against.

Mr. Carey of New York for, with Mr. McDonald of Michigan against.

Mr. Addabbo for, with Mr. Ruppe against.

Mr. Culver for, with Mr. Schmitz against.

Mr. Giaimo for, with Mr. Teague of California against.

Mrs. Green of Oregon for, Mr. Terry against.

Mr. Hawkins for, with Mr. Lloyd against.

Messrs. CAFFERY, CASEY of Texas, and ABOUREZK changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

INCREASE IN RAILROAD RETIREMENT BENEFITS—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-372)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I today am returning without my approval H.R. 15927, a bill which would jeopardize the fiscal integrity of the railroad retirement system and hasten its bankruptcy.

This bill would provide a "temporary" increase of 20 percent in railroad retirement benefits, matching the recent increase in social security benefits—but without any provision for financing the new benefits.

It would be the third railroad retirement benefit increase in 3 years—totaling 51.8 percent in all—to be made without an accompanying increase in taxes to finance the benefits.

I am in favor of increased railroad retirement benefits. I would sign a measure which was adequately financed. But H.R. 15927 does not meet this test and thus it would threaten the very existence of the railroad retirement fund which already is on shaky financial ground. In addition, the bill in its present form would contribute to inflation which harms all the people, including the railroad retirees themselves.

I have often stated my strong belief that the millions of older men and women who did so much to build this Nation should share equitably in the fruits of that labor, and that inflation should not be allowed to rob them of the full value of their pensions. By providing a 20 percent benefit increase without adequate financing, however, this bill goes far beyond reasonable equity.

In passing this bill, the Congress has mistakenly assumed that railroad retirement benefits should be increased by the same percentage as social security benefits. In fact, the two systems are entirely different. Railroad benefits are much higher than social security benefits—for full-career workers the benefits may be twice as high.

The railroad retirement system payments are a combination of social security benefits augmented by the equivalent of a private pension. There is no valid reason why the private pension equivalent necessarily should be increased whenever social security benefits are raised. Other industries have not raised their pension benefits by 20 percent as a result of social security increases, even though most of them provide less adequate benefits.

The argument that these "temporary" benefits do not require a tax increase is, in my judgment, a delusion. I cannot imagine that the Congress would find it possible or desirable to slash railroad retirement benefits next year or in any year.

The imprudence of H.R. 15927 is underscored by the recent report of the Commission on Railroad Retirement. That Commission was created by the Congress in 1970 to study the troubled railroad retirement system and recommend measures necessary to place it on a sound actuarial basis. Yet the Congress acted on H.R. 15927 before it had an opportunity to consider and act on the recommendations of its own Commission for basic changes in the railroad retirement system.

The Commission's findings do not support H.R. 15927 and a majority of the Commissioners recommended against such legislation.

The Commission found that existing railroad retirement benefits are adequate, particularly for workers retiring after a full career. Retired railroad couples receive higher benefits than 9 out of every 10 retired couples in the country. The Commission also reached the sobering conclusion that the enactment of an across-the-board 20 percent increase, without adequate financing, would bankrupt the system in 13 years.

I believe that railroad beneficiaries should now receive the same dollar increases in benefits as social security recipients with similar earnings. A 20 percent increase in the social security portion of railroad retirement benefits can be financed without worsening the financial position of the Railroad Retirement Trust Fund. The Congress followed this sound approach when it increased railroad retirement benefits in 1968.

Therefore, I propose that the Congress enact a bill which again applies this principle, instead of H.R. 15927. The 1972 increase under my proposal would average $28 per month for single retired railroad workers and would be about $47 a month for married couples. It would not deepen the presently-projected deficits of the Railroad Retirement Trust Fund.

I urge the Congress to adopt this prudent alternative, which would give these deserving pensioners an equitable benefit increase on a timely basis and which would still preserve the flexibility for basic readjustments that will be needed later in the railroad retirement system.

Working together, I hope that we can constructively reform this system so it can continue to serve the needs of railroad workers and their families for decades ahead.

RICHARD NIXON.

THE WHITE HOUSE, *October 4, 1972.*

The SPEAKER. The objections of the President will be spread at large upon the Journal; and the message, together with the accompanying bill, will be printed as a House document.

The question is, Will the House, on the reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

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

Mr. STAGGERS. Mr. Speaker, I have listened to the reading of the President's veto message and have read it myself. I think it is very unfortunate that the President would choose to veto legislation so important at this late hour in the Congress, knowing full well that we could not pass any other bill out to take care of those who are in need in the country and who have paid for their retirement and who are so deserving.

I would like to go back very briefly and give the Members a little history on this: That when we passed an increase in 1970 we provided for a commission to come up with a recommendation to the Congress for funding this fund to make it actuarially sound.

When we worked on this bill, the commission report was not before our committee, and I have not had an opportunity as yet to read their voluminous report. It consists of 570 pages, and including the appendices it will run from 750 to 1,000 pages at least. We have been extremely busy and have not had the time.

When we passed this bill, we added to it the provision that it was a temporary increase until next July. The increase will expire and we must come back before that time with recommendations to make the funding sound. I think everyone in the House recognized the fact that this was the intention of the committee and of the Congress to do just that, to come back and try to make the necessary recommendations next year.

We put in the bill, too, the proviso asking that labor and management come in with their recommendations also by next March, so that we would have time then to take those recommendations under consideration when we considered a new bill before next July.

The President says that this will jeopardize the fiscal integrity of the railroad retirement fund. He is talking about the situation that will exist if we do not do anything next July except extend the increases permanently. He is talking of years in the future, and he so states that.

Now, if there is nothing done until next July, there will be $4.35 billion in the fund left intact, because there is $4.6 billion now, and in this fiscal year, between now and next July, there will be about $250 million taken out of the fund.

So that the fund will be solvent as of next July and it would be for many, many long years into the future if we did not do anything. But this Congress knows it must act by next July; this Congress has given that commitment, because these raises expire at that time, on July 1.

So I think, with these things in mind, knowing that we do not have the time to take up another bill, which is just not possible, we must try to keep these increases on the books and try to override the veto.

I do not like ever to say this about any President, but I believe he has been ill-advised. I do not know who his advisers are. I am not blaming the President; I am blaming those who advised him, because I just believe they are completely erroneous and wrong.

He states in his veto message something about equality with the social security payments and making recommendations, as I said, as to enacting this into law, which is not possible now.

After I finish these remarks I would like to yield 20 minutes to the gentleman from Illinois (Mr. SPRINGER), the ranking member on the committee. It is seldom that Mr. SPRINGER and I are on opposite sides of any bill. I can say that, Mr. Speaker, and I would just like to

add this: That I am sure that his intentions are good, and I am sure that in his wisdom and in his position he must try to uphold the President of the United States.

Mr. SPRINGER. Mr. Speaker, I thank my distinguished chairman for his kind words.

Mr. STAGGERS. Mr. Speaker, I would like to yield at this time to the gentleman from Ohio (Mr. HAYS), the chairman of the Committee on House Administration. I yield the gentleman 1 minute.

Mr. HAYS. Mr. Speaker, it is very seldom that I inject myself into the affairs of another committee on this House, I think a great injustice will be done to the railroad workers of this country if this bill is not passed.

I, like the chairman of the Committee on Interstate and Foreign Commerce, do not blame the President for this completely, because all of us know that the President only has the same number of hours in a day that we do and he has a great many things coming to his attention. He has had to farm this matter out to some of his assistants and rely on their advice. When they say that this fund will be fiscally unsound if we go ahead with this raise for 6 months or 8 months until the first of next July, they are just not leveling with the President.

You know, there are a lot of things you can say about some of the things we have done here, but are we going to allow these railroad workers—and I have had some of them come to me every time I come home and say, "Are we going to get an increase like social security did?" and I assured them that they are—are we going to allow these railroad workers to suffer as a result of this?

You know, we did not hesitate much to bail out the Penn Central and we did not hesitate much to bail out Lockheed. I am not criticizing anybody. I voted for Lockheed. But, Mr. Speaker, nobody talked about fiscal responsibility or what it was going to do to the budget or what it was going to do to any funds.

As the chairman of the committee pointed out, the Congress will act on this, and this fund will not be damaged. We ought not to do this to these people and ought not to have them stand around and wait until Congress comes back.

I, like the chairman of the Committee on Interstate and Foreign Commerce, hesitate at any time to oppose the President, but in this particular instance I think that the President was ill-advised and I think that the Congress ought to pass this and the House of Representatives ought to do it this afternoon and we ought to do it resoundingly.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. METCALFE), a member of the subcommittee and the full committee.

Mr. METCALFE. Mr. Speaker, once again the President of the United States has shown total disregard for the workingmen of America by vetoing a bill, which, in effect, would increase the benefits for the retired railroad workers of America. This increase would be comparable to the 20-percent increase which this House recently voted for our senior citizens under the Social Security Act.

The working men and women of America are unable to exist financially unless, their income increases to keep pace with the constant rise in the cost of living. The President has shown a great insensitivity to the retired workers by denying them the means to live in a decent manner.

Further he has shown a complete disregard for the will of this body which has attempted to meet the needs of our citizens. Now, with the veto unless this House acts, these individuals will not be able to cope with the rising costs on a substandard income. I urge you to override this veto.

Mr. SPRINGER. Mr. Speaker, the question has been raised as to whether or not the President knew just what he was doing when he vetoed this measure. It is suggested that some vaguely identified people described as "staff" convinced him to so act. Don't you believe it. He knew exactly what he was doing, and he was right.

It is no service to the railroad worker or the railroad retiree to allow this fund to plunge headlong toward bankruptcy and the President has here tried to avoid it. The very integrity of the President has been attacked here but both his integrity and that of the railroad retirement system have been furthered by his action.

Mr. Speaker, I hope that I can put some light on this, because I think you want to know what the facts are with reference to this fund when you vote on it.

Now, when we in this body plus the Senate formed the railroad retirement fund it was at the request of the railroads and the brotherhoods in 1936.

When this fund was formed we set up a Railroad Retirement Board made up of three men. I have been on this committee for 22 years. For 8 years I was on the Subcommittee on Transportation and Civil Aeronautics. Since then I have been an ex officio member due to the fact that I have been the ranking minority member. I think I have known everything that has happened to this fund.

Three years ago was the first time that I know of in all the history of this fund that we ever violated the concept that the fund had to be actuarially sound. It had to be actuarially sound, which meant that you had to be paying into the fund enough money so that those men who were paying in then and today, the younger workers, will be able to get their pensions 25, 30, or 35 years from now.

I happen to have a list of the railroad workers in my district, and I sent out to those workers—not those on pension, but those who are working—a letter, and I explained exactly what was involved. I told them what the raises had been in the last 3 years which compounded amounted to a 55-percent increase in the last 3 years. And, gentleman, from those who are paying into the fund, who are working today, I did not receive one single letter, not one in favor of this raise. Now, I probably received 25 or 30 or 35 letters from retirees, people who are drawing on the fund today, of course. But they are not interested in whether the fund is actuarially sound, they are interested—and I can well understand their feelings about it—in the increase for themselves. And they are not interested in necessarily what is going to happen to those who are working now in 10, 15, 20, or 25 years from now who are expecting to draw from this fund, and who are expecting it to be actuarially sound.

We have a report on file here which shows that the fund itself is on its way into bankruptcy, and will be completely bankrupt in about 16 years.

Let us just take this one thought, Members of the House; if you try to give somebody a 55-percent increase in 3 years, how many retirees do you have?

You have 900,000 people who are drawing on this fund, but, how many people are paying into the fund? There are 600,000 people paying into the fund.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. No, I cannot yield to the gentleman from Maryland at this time because I want to put this material in all in one bundle.

So, Mr. Speaker, I think we must well realize that you are going to have to talk, not to the retirees when we go back home, but we are going to have to talk to those people who are paying into the fund, and who are paying in nearly 10 percent every month, and you have to tell them that this fund is actuarially unsound, and that it will be bankrupt in 16 years.

That is what you have to tell them.

The president was advised—and may I assure you that the President was adequately advised, and rightfully advised, and I believe that he made the right decision.

I do not intend to kid any of my people back home who are paying into the fund that they can expect to have a pension in 15, 20, or 25 years from now if this fund stays in this position. That is what we must face.

The President has not been altogether negative. He has tried to be constructive. Here is what he said with reference to this matter and what ought to be done about it. He said:

> Therefore, I propose that the Congress enact a bill which again applies this principle—(that is the principle mentioned above)—instead of H.R. 15927. The 1972 increase under my proposal would average $28 per month for single retired railroad workers and would be about $47 a month for married couples. It would not deepen the presently-projected deficits of the Railroad Retirement Trust Fund.

What you are trying to do here is to increase this by another 20 percent. What you are doing is going far beyond anything that social security did because most of these people are drawing twice as much as you get on social security. That is not out of the way because these people are paying more and in fact other people pay 3 percent and 4 percent and 5 percent, and therefore they are justified in having an increase. But nobody is paying into this fund to give them the amount of increase that we have given in the last 3 years. There is no justification for it. I think the whole problem

here is the risk, and you have to explain to these people who are going to follow along behind who expect to be paid out of this fund sometime in the future.

I yield to the distinguished minority leader for his comments.

Mr. GERALD R. FORD. Mr. Speaker, I supported the gentleman when we first considered the legislation, when he offered an amendment which I think would have been the proper way to handle the funding and the added benefits which are needed and justified. I regret that that amendment was not approved. I think it was a sound approach and would have made the proposal acceptable to me and I believe the President. I intend to support the gentleman from Illinois because there is no adequate financing of a fund that is threatened with future bankruptcy.

Mr. SPRINGER. When this matter was before the House I offered an amendment which I thought was a fair one. I said I did not want to, but I would vote for it if the House would increase the tax on the worker an additional 13 percent and industry an additional 13 percent. That would be an increase of 26 percent divided equally between the employer and the employee.

We got 104 votes for that but the rest of the Members did not face up to the fact that we had to do this if you are going to keep this actuarially sound.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

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

Mr. LONG of Maryland. How did the gentleman vote on the bill giving the Penn-Central a loan of a hundred million dollars? Penn Central executives had voted themselves fabulous salaries and pensions as high as $60,000 a year. They ran the railroad into bankruptcy. I do not think this is any secret—most people agree on that. Then they came to the Congress and we bailed them out. Now we have a lot of workers who have spent their lives working for the railroads and through no fault of their own the railroad industry is in trouble.

How did the gentleman vote when it came to that, to the loan to the Penn Central?

Mr. SPRINGER. I voted for the Penn-Central loan.

Mr. LONG of Maryland. Well, I voted against it.

Mr. SPRINGER. Let me just say this to the gentleman—if he wants to be difficult about this—

Mr. LONG of Maryland. That is a term——

Mr. SPRINGER. I do not yield further to the gentleman.

I voted for it because about 70 percent of every dollar went to the employees of the Penn Central which is the biggest employer. Over 40 percent of the people who travel in this country travel on the Penn Central. And I did it in order to keep those employees at work. That is why I voted for it. You have been trying to picture this as some kind of thing about some wealthy officials, and it was not. I voted for it because I wanted to keep those people employed and I would not have voted for it under any other circumstances.

Mr. LONG of Maryland. Including executives, who are also employees.

Mr. SPRINGER. Let me just say this. I think that over 70 percent of all the money went to the employees down on the railroad, and I have not seen those people thrown out of work, and some of them, or a lot of them live in the gentleman's district.

I do not yield any further to the gentleman.

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

Mr. SPRINGER. I yield to the gentleman.

Mr. MICHEL. Mr. Speaker, I want to commend my colleague, the gentleman from Illinois, for his statement here today. I was persuaded by the arguments he made so well when we originally considered this bill earlier and I voted against it.

Yes, I too have received some comments with respect to my vote from a number of people back home. As for the younger railroad workers, not one of them have complained about my vote.

Some elderly folks who are on retirement questioned me about my vote and I made the point with those folks that somebody in this Chamber had to be thinking about the solvency of the trust fund a few years down the road. Life expectancy is increasing and our elderly people on retirement are living longer. We have got to make sure that these trust funds will be secure for those extended years of retirement. I wonder too, under the social security system itself, how long we can continue going this same route we are traveling today without raising taxes to pay for the larger benefits.

There is more and more talk about lowering the age of retirement and if we do this we compress into an even smaller group those who have to pay the higher taxes to pay for the ever-increasing benefits.

I tell you my friends more and more of our young people are getting concerned about this and whether there will ever be enough for them to retire on when that time comes.

There is a limit to the burden we can ask them to shoulder at the very time they are just getting married, buying a home, rearing their children and then ultimately sending them to college. We have to wake up to the fact that unless we ante up the taxes to pay the bill we are not going to have any benefits to bestow a number of years hence.

So I do commend the gentleman for the position he has taken and I too am going to vote to sustain the President's veto, if for no other reason to help dramatize this concern we have for the solvency of all retirement trust funds. It is a critical and serious thing and ought not to be treated so lightly.

Mr. SPRINGER. Mr. Speaker, may I reply to my distinguished colleague from Illinois and explain to the House there is quite a bit of difference. I think the gentleman from Illinois well explained it here on the floor of the House when we granted roughly a 20-percent increase into the social security fund. We have several times as many people paying into the fund as we have taking out of it. It is not the same situation here where we have 900,000 people drawing and only 600,000 people paying in. There is not a bit of comparison between the situation under this fund and the one under social security.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

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

Mr. COLLINS of Texas. I should like to point out again the importance and necessity of the presidential veto. Before I came to Congress, I worked 25 years in the life insurance business. We were concerned with the actuarial strength and soundness of retirement plans. When every man here in good conscience studied this plan, he would understand the logic of the President's veto. We all have to remember that there are 600,000 people working for railroads, yet there are 900,000 people drawing benefits. We cannot increase the benefits by 55 percent, as we have done in 3 years, and not put any money in the fund, without having a financially bankrupt pension plan.

They say it will take about 12 years before it will be completely broke. This represents a considerable financial loss to the man working today and putting his money into the retirement plan. This means that a man working for the railroad who is 40 years of age will not have any money available in the plan when he reaches retirement age. This is one of the greatest pension plans in America—the Railroad Retirement plan—is one of the finest pension plans that has ever been funded. One month before election we come to debate and through political expediency we are considering bankrupting the plan.

Always remember that when Congress authorizes 55 percent more to be paid out, while not providing a single nickel of funds to provide the payments, then financial bankruptcy of the Railroad Retirement plan is inevitable.

I thank the gentleman from Illinois.

Mr. SPRINGER. I thank my colleague from Texas.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I share the President's concern for the future fiscal integrity of the railroad retirement system because it has been in trouble for the past few years. During that time, unprecedented numbers of railroad employees have retired and they have been caught by inflation. This administration is not responsible for the inflation which has hurt these and other retirees. The fault for that inflation lies with previous administrations. But the fact of that inflation cannot be denied, even though this administration has made great strides in trying to end it.

Railroad workers in recent years have not been among the best paid workers in America. Their retirement system is a different plan from the social security system, but they deserve no less than those on social security.

There is no question that we must

face up to the necessity of straightening out the railroad retirement system because it is unsound and is on the road to bankruptcy. One step in doing that will be to save the railroads in this country so that present employees can afford to maintain their retirees. If this highly regulated industry does not survive, the Federal Government and all citizens must share the responsibility for the collapse. We will have a moral duty not only to maintain our obligation to the present 900,000 retirees but to the 600,000 currently working on the railroads. The future employment of those 600,000 was what we had in mind in loaning Federal funds to the Penn Central Corp. We have an obligation to them and to the 900,000 retirees to find a method to make their retirement system sound. But we cannot penalize the present retirees in the meantime.

I shall vote to override the veto and do so in the confidence that our committee will undertake the difficult job of straightening out the railroad retirement system early next year.

Mr. SPRINGER. Mr. Speaker, I reserve the remainder of my time.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MACDONALD).

Mr. MACDONALD of Massachusetts. Mr. Speaker, I thank the chairman for yielding to me.

Mr. Speaker, I rise to associate myself strongly with the remarks of the gentleman from West Virginia, the chairman of our committee, who has done an outstanding and statesmanlike job helping to get railroad retirement bill through the Congress.

I join with him in urging my colleagues to overturn the President's veto which I feel is a show of indifference to countless thousands of retired working Americans. The President has once again chosen to ignore the harsh realities of life for the retired American. Inflation goes on largely unchecked. Food prices continue to rise at an unprecedented rate.

Yet the President calls upon the retiree to bear a difficult burden, of living on a meager fixed income.

Our committee has recognized the need to relieve the retired Americans of some of their burden. We sought, and the House approved 398 to 4, to allow railroad retirees a 20-percent increase in retirement benefits commensurate with the increase voted earlier for social security. In the face of overwhelming need and in the face of nearly unanimous congressional approval, the President has acted with disregard for the interests of retired railroad employees.

In his veto message this morning, the President states that Congress should not act until it has been able to consider the recommendations of the Presidential Commission on Railroad Retirement. He is talking about a 600-page report which is complex and highly detailed. Certainly the Congress will consider this report, and certainly there will be an opportunity for making basic reforms in the present railroad retirement system.

But what good will that promise do for the many thousands of retired workers who can barely make ends meet now? What relevance do the pages, charts, and graphs of that report have to the great needs of these Americans who have worked so hard and long for their country—the need for food, clothing, and shelter—for bare subsistence?

I urge all of my colleagues—not to turn our backs so easily on these people. I suggest we should not, and that we should join together to override this veto.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Moss), a member of the committee.

Mr. MOSS. Mr. Speaker, I am going to vote to override this veto because in my judgment the increases contemplated by the law the Congress passed so overwhelmingly are fully justified. It is not the fault of the railroad worker that the basic actuarial assumptions underlying this plan contemplated an upgrowth in employment in the railroad industry or at least a level of employment in the industry. The fact is that employment has declined.

We are going to have to reexamine those basic assumptions. We have before us the report for which we have waited for 2 years. The committee has given its commitment to consider the matter early in the next session.

In the meantime there is no justification for working this kind of penalty upon a small group which would be charged unnecessarily with the burden of inflation. That cannot be valid. There are only approximately 900,000 involved but they are entitled to equitable treatment and only by overriding this can we give that equity to those people.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. HARVEY), a member of the committee.

Mr. HARVEY. Mr. Speaker, I rise very reluctantly to override this Presidential veto and particularly reluctantly to oppose the views just expressed by my good friend, the gentleman from Illinois.

However, I introduced this legislation just a short time ago. I felt it was timely then and I still believe it is timely now.

Mr. Speaker, the railroad industry is in very unusual circumstances. We in this country and in this Congress have already nationalized the passenger service. Unless we do something very swiftly we are going to have to nationalize the rest of the railroads and the freight service as well. It is an industry where the number of persons receiving railroad retirement is increasing and yet the number of employees in the industry is decreasing. It is obvious that our committee is going to have to come up with a solution to this problem and come up with it very swiftly.

The solution in my judgment is to form some sort of two-tier system and divide railroad retirement at the present time so that portion of railroad retirement which is comparable to social security can be absorbed by the social security system and form the first tier of railroad retirement, and so that the other portion of railroad retirement can be a matter between the employees and management of the railroads themselves.

This makes sense to me, and I think something along that line will be done by our committee. Whether our committee makes a change such as I have suggested, or adopts some other method, we must come to grips with the problem next year.

In the interim period of time I do not think we can turn our backs on those former railroad workers now receiving a pension. In the past they have had raises when we have raised the social security recipients and I believe now they are entitled to this raise at this time. I intend to vote to override on this particular veto, Mr. Speaker.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Speaker, the 20-percent increase is necessary to keep up with inflation which the railroad retirement people have experienced. The President's veto denies the admitted needs of a group of Americans who have waited patiently for the catchup increase in retirement benefits.

I urge the House today again to vote to help the retired workers and their families meet this need. It is fair and necessary. We must vote to override the President's veto.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, there is not a member of the committee on either side of the aisle who does not recognize the fact that we are going to have to make adjustments in the formula. We realized this 2 years ago when we had the last social security raise, and that is why the Commission was appointed, to give us recommendations so that we could do something about it.

But, when we acted on this bill in August, that Commission report was not out. We did not have it before us.

When the matter was before the Whole House and we voted, during that discussion on August 9, the chairman of the committee asked for more time to hold hearings so that we could adjust it in order to be more fiscally responsible.

The chairman said that we would hold hearings between now and June 1973, so that we had his word in recognizing that something must be done by then.

I think in all fairness that the only thing we can do is to override this veto. We are going to change the formula. We must change it. The retirees must recognize this, but we have agreed to hold hearings.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Speaker, I do not think there is a single Member of this House, when this measure came up for consideration, who did not realize that we are going to have to make some very basic changes in the railroad retirement pension system.

The railroad industry has been a declining industry, as is evidenced by the fact that there are more people retired that are actively working.

But that is not the question. The ques-

tion today is whether or not we in this Congress are going to allow railroad retirees to be deprived of an increase that they should have simply because we the Congress have not tackled this problem soon enough.

Now, the chairman of the committee has given his word that we will take this up as one of the first matters of business next session. He will hold hearings and we will work out some means of providing a sound actuarial basis on which the pension plan can continue.

I cannot disagree with what the President says in his message. He is correct in the statements he has made. However, the question is not whether the President is correct in the statements he has made, but the question is whether or not we are going to deprive the railroad employees, the retirees, of their increase until this Congress acts.

We recognize that something must be done. The Congress intends to do something. The chairman has given his word that this will be a matter of top priority next year. Certainly, we are not going to wait 16 years for it to bankrupt the system, but this temporary increase is needed now by each and every retiree.

I urge the Members of this Congress to override the President's veto.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I think the House should know the issues before it today. The Committee on Interstate and Foreign Commerce presented a bill, which was passed overwhelmingly by this body, to provide certain modest, temporary increases for recipients of benefits under the Railroad Retirement Act.

Those provisions were just, when voted on by this Congress, and they are equally just today. The action of the President in vetoing this legislation very clearly imposes a hardship upon the many thousands of needy retirees under railroad retirement.

The question before the House today is not one of partisanship; it is not one of support or opposition to the President. It is, simply, support for simple, fundamental justice. Shall we carry forward on the commitment which we made to the retirees? Or, shall we fail on the precedents that we have long established, that railway retirement should follow hand in hand in terms of the level of benefits to retirees under the social security system? Shall we follow the precedents which we have established during the 17 years I have had the honor to serve in this body? Shall we treat these retirees in simple justice?

Mr. Speaker, I urge the Members of Congress to vote to override the unjust veto.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, when this Congress raised social security benefits by 20 percent, it imposed upon itself an obligation to give equity to the railroad workers of this Nation. It seems to me that just because they are fewer in number, that we should not distinguish in any way the equities in this situation as against those of social security retirees.

I normally do not like to override vetoes. I normally do not like to extend our Federal payments and deficits any more than we have to. But in this instance equity requires that we override this veto.

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

Mr. STAGGERS. I am happy to yield to the gentleman from Ohio.

Mr. VANIK. I heartily concur in the remarks made by my colleague on the Ways and Means Committee.

I urge that this House override the President's arbitrary veto of the 20-percent temporary increase in railroad retirement benefits.

Can the President for one moment assume that railroad retirees are less exposed to inflation and the escalating cost of living precipitated by administration policies which have driven food and living costs "high into the sky?"

The present day social security system was created from the railroad retirement program. Railroad employees have contributed into retirement programs longer than any other group of workers in America.

Railroad workers had no option to move into social security. They were always assured by Congress that they would be treated like all other workers of America.

It is incredible to see how the President can apply the inflation "tag" to increased retirement benefits while he permitted $10 billion to flush out of the Treasury in his proposals for the investment credit, the asset depreciation range, and the repeal of the automobile excise tax. The President did not worry about inflation when he granted export subsidies on Russian wheat which netted hundreds of millions of dollars in profits to wheat exporters. This will result in every railroad retiree paying an additional 3 to 5 cents per loaf of bread. He did not worry about inflation when he increased milk subsidies and milk prices by 2 cents per quart; nor did he worry about inflation when he went along on the release of price controls on natural gas which will increase consumer prices by an additional $7.7 billion per year. Nor did he worry about inflation when he permitted the gasoline industry to eliminate discounting pricing to increase gasoline by 3 cents per gallon for 90 billion gallons consumed each year. Nor is he thinking about inflation when his Price Commission defers action on automobile price increases until after the November elections.

The President's fight against inflation is extremely selective and seldom operates when specially privileged groups seek extra-profitability at taxpayer expense and increased consumer prices.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. I thank the chairman.

Mr. Speaker, I support overriding the President's veto of this bill. This is a very simple matter. It is a matter of priorities.

I do not see how, in a declining industry, it is possible to make the fund actuarily sound from the remaining railroad workers in order to support them and those already retired. I do not believe this is a popular thought, but I suspect we are going to have to make up our minds in the Congress to appropriate money from the general fund to see to it that the people who are retired from the railroad industry, which has declined, are given equity.

This is a matter of priority and fairness, not a question of actuarial soundness.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, all the considerations we had in mind when we increased the social security benefits by 20 percent apply precisely the same for railroad retirees.

We hear a lot about fiscal responsibility from an administration which plans deficits each year of $25 billion to $30 billion. I shall be fiscally responsible next week, when we consider the President's request for a $250 billion blank check.

I must say that I cannot see that we should try to balance the budget and become fiscally responsible by cutting back on the food money for railroad retirees.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. I thank the chairman.

Mr. Speaker, I was very much concerned today when the veto message was read here in the House of Representatives.

I come from a very large railroad community, where we have thousands of people who are participants in the railroad retirement system and where there are many now on retirement and drawing their railroad pensions. They were all told by those of us who represent them here in the Congress that we had introduced a bill to make them whole as far as their pensions were concerned, as related to the increases given in behalf of social security recipients.

Knowing these people very personally, I can truthfully say that the amount of the increase was badly needed by them. I hope they will not be disappointed. I hope the House today will override the President's veto and make good our pledge to the railroad retirement pensioners, that they will also receive a 20 percent across-the-board increase.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Under the leadership of President Nixon this country has been spending itself blind—the $1 billion foreign aid increase that we voted 2 weeks ago is a good example. The result is rampant inflation.

The victims of this inflation have been the older and the retired people. Their savings and their pensions are being eroded by the inflation. We owe them a debt and I am for them.

Talking about bankruptcy of the railroad retirement fund in 1988, 16 years from now, turns me off. The gentleman

from Illinois says he voted to give $100 million to the bankrupt Penn Central Railroad because 70 percent would go to the workers. This assumes that the bankrupt Penn Central would have stopped functioning and laid off its employees. That is nonsense.

In the entire history of the United States, almost every railroad has gone bankrupt at one time or another. I have never heard of one of them which has stopped functioning and laid off the workers.

The banks are into the Penn Central to the extent of over $4 billion. The bailout that we voted 2 years ago was, therefore, not for the workers. It was for the banks and the executives, many of whom are receiving $60,000-a-year pensions.

Now, after himself voting for a loan to help the banks and the executives with their $60,000-a-year pensions, the gentleman from Illinois (Mr. SPRINGER) wants to start economizing on the retired workers whose savings have been reduced by inflation.

I support overriding the President's veto because I support the older and the retired people.

Mr. STAGGERS. I yield 1 minute to the gentleman from Washington (Mr. ADAMS) a member of the committee.

Mr. ADAMS. Mr. Speaker, as we stated to the Members at the time this bill was originally passed, this matter will have to be the subject of a series of committee hearings in the spring. The idea of whether or not this fund is actuarially sound is not a good argument. We know that it cannot continue in its present functioning system, because of the declining nature of this particular industry.

So I hope that the Members will vote for continuing this increase that we have presently gone through. We have assured all of the Members, or the members of the committee and the members of the subcommittee have, that this entire matter will be presented to the Members before the middle of next year, so we can decide whether this system should be merged into social security, or whether it should be a separate system, whether there should be an increase in taxes, or how it should be handled.

We only received a report from the Commission the day before yesterday, so we have not had an opportunity to go through it and complete the recommendations.

The SPEAKER. The time of the gentleman has expired.

Mr. STAGGERS. I yield to the gentleman from Washington (Mr. ADAMS) 1 additional minute.

Mr. SKUBITZ. Will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I want to commend the gentleman. He has correctly stated the position of the committee when it approved the bill. What surprises me is that those who now oppose this legislation call it unsound unless we do something about financing. This is a temporary increase. It is the intention of our committee to do something when Congress reconvenes next year.

I can remember several years back when we granted increases to hundreds of thousands of people under the social security program. We blanketed them in and at that moment there was no provision made for taking care of the added costs. At a later date this was taken care of. That is what this committee and Congress will do next year.

I want to commend the gentleman from Washington.

Mr. ADAMS. The gentleman is correct, as to the social security increase. We will have to see what we can decide as to what can be done with this system.

I would hope this bill can be passed.

Mr. STAGGERS. I yield 1 minute to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, one of the most serious acts that a President can perform is to veto an act representing the collective wisdom of the House and the Senate of the United States. This is particularly true in a case where a bill is passed with the broad bipartisan support this one has had. Use of the veto is deeply revealing as to a President's basic philosophy and priorities. And if I can paraphrase the Bible:

By their vetoes you shall know them.

I just ran out to check the record on President Johnson. In 5 years he vetoed about 25 bills, and in nearly every case he vetoed them on the grounds that some special interest was getting a windfall due to a mistake, as he viewed it, by the Congress.

In contrast, President Nixon is the first President in history ever to veto a major education bill. His vetoes include child care, vetoes of the Hill-Burton hospital program, vetoes of health and education and welfare and things of this kind which affect the lives and health of people.

This is sound, solid legislation. The committee ought to be proud of it, and I am sure the committee is proud of it. I shall vote for it, and I urge my colleagues to do likewise.

Mr. SPRINGER. In order that my colleagues may have no misunderstanding, I want to read from the summary of the Railroad Retirement Study Commission.

Now, we asked that a Commission created by us study this matter and make a report to us. Let me read our four points, in order that the Members may know what they said.

Now, they were an impartial board, an impartial Commission, of high-minded people, as far as I know. Of course, I have heard no criticism of any of them from either our committee or any Member of this Congress.

It reads as follows:

I will read now from their summary. First, the Commission, after consultation with a group of most eminent actuaries in this country, has found the Railroad Retirement System as it now stands is headed for bankruptcy. The present fund stands totally at about $5 million. The Commission projects the system will be bankrupt in the year 1988.

Second. The enactment of the 20-percent increase in railroad retirement benefits by H.R. 15927 will speed the bankruptcy of this system. The increase under the bill is technically temporary, but everyone knows Congress does not take back benefits increases once they are provided. Thus approval of this bill would represent a de facto permanent commitment to a 20-percent increase.

Third. The present increase would represent irresponsible financial handling of the Railroad Retirement System. In 1970, a 15-percent increase, and in 1971, a 10-percent increase were enacted without providing any additional taxes to cover the costs. A third increase of 20 percent will be added again without providing any new financing.

The compound increase will be 53 percent in 3 years without any provision for added increase in taxes. This sort of legislation is a threat to future benefits of present railroad retirement workers who are being asked to contribute to a system which is sure to go bankrupt.

Fourth. The argument that a 20-percent increase for railroad beneficiaries must be provided as a matter of simple equity if social security recipients are given a 20-percent increase is not valid.

The average monthly railroad retirement benefit in December 1971 was $222 per month as compared to an average social security benefit of $132. Thus a 20-percent increase for railroad beneficiaries would be 1.7 times as large as for a social security recipient. The social urgency of the social security benefits is quite different than for the bigger railroad benefits. The social security fund is not threatened with bankruptcy as is the Railroad Retirement System which depends on an industry in which six railroads are now in bankruptcy.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. GRAY).

Mr. GRAY. Mr. Speaker, I thank my friend, the distinguished chairman, for yielding.

Mr. Speaker, I strongly urge my colleagues to vote to override the President's veto of the 20-percent increase badly needed by the retired railroad workers and their families. I am totally unable to equate the President's position in signing a 20-percent increase in social security but giving the veto ax to the 20-percent increase for retired railroad workers. It is grossly unfair to single out this group of needy people and deny them a badly needed raise.

If we do not override this veto, this group of dedicated Americans will be penalized beyond what we should expect of retired persons on fixed incomes.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. I thank the gentleman for yielding, and I take this time for a question.

I wonder if the chairman can tell the committee if there is any information as to what kind of slip or note will be put in with these checks in the event the veto is overruled by the Congress.

Mr. STAGGERS. I have no information on this.

I now yield to the gentleman from Rhode Island, a member of the committee (Mr. TIERNAN), such time as he may consume.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr.

Speaker, I rise to associate myself with the remarks of the distinguished chairman of the Interstate and Foreign Commerce Committee (Mr. STAGGERS) and the able member of the committee my colleague from Massachusetts (Mr. MACDONALD) in urging that the Members of U.S. Congress override the veto of the President. The rising costs of living, the escalation of inflation has made it impossible for the elderly on fixed incomes to meet with the bare needs. Many of these people are suffering real hardship. The truth of the matter is that Railroad Retirement payments even with this modest increase is not sufficient. I favor a 50-percent increase in their benefits. I favor a change in the tax formula from 50 percent on the employers and 50 percent on the employees to a tax of one-third on the employee, one-third on the employer and one-third out of general revenues.

Mr. STAGGERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. HICKS).

Mrs. HICKS of Massachusetts. Mr. Speaker, I rise in opposition to the veto by President Nixon of H.R. 15927, a bill which amended the Railroad Retirement Act by providing a temporary 20-percent increase in annuities for railroad retirees.

I am shocked that the President would veto a measure designed to keep the railroad retirees in pace with social security recipients. This is not the place to be economy-minded. Failure to give this increase would be a grave disservice to 900,000 railroad retirees. The need is now. The time is now. Railroad retirees should not have to wait for temporary relief while the Congress establishes a sound financial basis for the railroad retirement fund.

I urge my colleagues to override this veto.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the distinguished majority leader (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker and Members of the House, the distinguished gentleman from Arizona (Mr. UDALL), in my judgment, put his finger on one of the principal issues involved here, and that is the type of bills that President Nixon seems to veto. Mr. UDALL mentioned education, child care, and hospital programs, but we can add to that the public service employment, accelerated public works, and others.

All of these cases involve people, programs designed to help people, to employ people, to educate people, to improve their health and environment. This bill affects approximately 1 million men, women, and children, most of whom are in hard straits, and most of them who are in even harder straits because of the inflation that has characterized this administration. Everybody knows what has happened to the cost of meat, poultry, food, rent, and medical care. This bill was passed as a temporary stopgap to help these 1 million people.

Now I know that there is inflation in the country, and I think that we on our side have responsibly supported the measures designed to control inflation, but I know also that it is a cruel message to send to these people that, when this Congress next week, hopefully, adjourns, there will be no increase, not 1 penny.

In the veto message, the President says that he recommends an alternative plan, and that Congress should enact this plan.

Well, now, there is not a man or woman in this body who believes for 1 minute that we could possibly pass through the House and through the Senate, and through a conference, a new railroad retirement bill between now and next Saturday night. So what it really means is that we do nothing. We either vote to override this veto and give these people, widows, children, old people, a justifiable increase in their pension by voting to override this veto, or we do nothing.

So far as I am concerned I think the committee has acted responsibly. It did what it has done four times in the last several years, 1966, 1968, 1970, and 1971. The committee acted for the railroad retirees after the Committee on Ways and Means had acted on social security legislation. They are being consistent. It is true that a very profound study has been made and is presently before the committee. The chairman of the committee has said here in his opening remarks that those recommendations would be studied in detail by the committee. He said that by the time this temporary legislation—and, remember, this legislation expires at the end of June next year—he would be back with recommendations from his committee which would adequately cover some of the problems set forth in this report.

For these reasons, Mr. Speaker, and for the reason of just common humanity, I ask this veto be overridden.

Mr. SPRINGER. Mr. Speaker, I yield 3 minutes to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I had not intended to get into this discussion, but the remarks of my friend from Louisiana, the majority leader, prompts me to make a comment or two. The gentleman indicates that the President has recently approved a 20-percent social security increase. He indicates that in the past the President has agreed to increases in railroad retirement. The gentleman from Louisiana is correct. However, the majority leader now condemns the President on this occasion because he has vetoed the proposal approved by both the House and the Senate.

In the case of social security increase, in the last 4 years the Congress has provided additional revenue by payroll tax increases, or by an increase in the pay level on which payroll taxes can be imposed. This means that the financial integrity of the social security fund has not been placed in jeopardy. That is not the case in this instance, and as a result, as the gentleman from Illinois has said, there is a very, very serious financial crisis facing the railroad retirement fund.

Now, the gentleman from Louisiana made some additional observations and comments concerning other vetoes by the President in the past 3½ years. He mentioned child care. He mentioned education, health and hospital programs. The President did veto a broad and totally unacceptable child care program. But he has recommended and supported a child program for those people or those families where there is an economic need.

I do not think that the American people would support a child-care program for the rich and poor alike where an individual can get child care regardless of the economic situation. Federally supported child care for the rich is not justified.

I cannot support a child-care program that provides for the wealthy, and the President was right in his veto. I support a child-care program as the President does, for those families where there is an economic problem.

The facts are in addition that the President's budget for education—for all of the educational programs in each of the last 3 years—has been higher than the preceding budgets in the comparable areas under the previous Democratic administration. However, the President could not accept the over-extended and over-costly spending programs beyond his generous education programs.

We or the President added dollars for health and for hospitals, but we are not going to bankrupt the Federal Government by programs that cannot be justified—in view of the kind of deficit that we have today.

The SPEAKER. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, the Railroad Brotherhood in my State did not endorse my candidacy for reelection, I am sorry to state. But the election is over. I am not obligated to them. I am a free agent, so I can look at this objectively—and I am going to vote to override the veto.

I think what is proposed here is sound, and I think it is needed. I recognize the problem about funding. Prolonged deficit funding is a serious matter. But I do not know why this should be the place to draw the line. I do not know why we should suddenly become economy minded here. There have been many places where we could have economized in better grace than when we deal with the livelihood—the earned retirement of deserving Americans. So I shall vote to override and I hope the veto will not be sustained.

Mr. SPRINGER. Mr. Speaker, in the 1 minute remaining I do want to impress upon the House that in coming here and saying what I have said that it has been with some reluctance that I have taken this position. But I have felt in the best interest of all the people who are involved, both retirees and those who are paying in, that I had an obligation on my part to lay before the House the facts as I find them.

It is certainly up to the Members to determine whether or not you wish to continue the situation as it is, which will lead this fund into bankruptcy. I do not think there is any question about it. I think that the commission which studied this, and from which I read a minute

ago, shows that we are bankrupting that fund at a rapid rate. I think all of us realize that if we had had our incomes increased 55 percent in the last 3 years, and we were looking to the taxpayers back home, how outraged they would feel about that.

I think you can see that if you submitted this to those 600,000 people who are paying into the fund today, who expect to get their pensions 10, 15 or 20 years from now, that you would not even get a 5-percent vote from those people.

Mr. STAGGERS. Mr. Speaker, as I said at the outset of this debate, I am very sorry that this had to come up. I do not blame the President at all. I blame those who advised him. I do not believe they knew the circumstances.

In 1970 when we passed the railroad increase, we had appointed a commission. As Mr. SPRINGER said, it was a blue-ribbon commission. That commission was supposed to report back to this Congress by July 1 of this year so that we would have time to enact legislation. We could see that they were not going to do it, so we went ahead, since social security did, to keep pace with what they were doing, and enacted legislation on August 9.

Looking at this commission report, it was filed and printed on September 5, 1972. If we had waited until receiving this report to have acted, we would not have been keeping faith with the railroad workers in keeping up with social security. We have always said when social security would get a raise, we wanted to keep up with what they were giving—the amount.

It has been mentioned that some of the railroad workers are getting a higher pension than others. I would say that every railroad worker pays twice as much into the pension fund as any other group in the land at this time, Mr. Speaker.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield for a question?

Mr. STAGGERS. I yield to the gentleman from Arkansas (Mr. MILLS).

Mr. MILLS of Arkansas. I think the gentleman just covered my question. I was off the floor. What would be the relationship between the railroad retirement benefits and social security benefits if railroad retirement benefits are not raised?

Mr. STAGGERS. It will be out of kilter in percentage points.

Mr. MILLS of Arkansas. Would that be for the first time?

Mr. STAGGERS. For the first time that I know of.

Mr. MILLS of Arkansas. If we do not raise the railroad retirement benefits now, railroad retirees will be treated differently from social security?

Mr. STAGGERS. The gentleman is exactly right.

Mr. MILLS of Arkansas. Even though the employees covered under the railroad retirement system pay more into the system than other employees that pay into social security?

Mr. STAGGERS. Considerably more; that is right. I am talking about percentage now, not dollars.

Mr. MILLS of Arkansas. That is right, percentagewise.

Mr. STAGGERS. I thank the gentleman from Arkansas.

I might say this, that when this bill passed the House the last time, we had considerable debate and amendments, and after all of that, the bill passed 398 to 4. I cannot see any reason why any man who voted in this House before would change his vote now. The situation is the same. It means that if we do not pass this bill now, that these who have paid into the fund will not receive any benefits until this Congress comes back into session, has time to have hearings, and pass legislation.

If the Members know the typical railroad worker of America, he has not been able to save like most other people, because most of them have children that they are trying to raise while they are working, and when they come to the time of retirement, they just have not been able to save. They have put money into the retirement fund expecting that to take care of them in their retirement ages.

If we do not pass this bill, we are not being fair to those men and the widows—and there are thousands of those in the land, and they have children whom they send to school, who benefit under this retirement fund. We will not be doing justice by them.

Again, I ask the Members of Congress to search their consciences and to vote what they think is right for those who I think deserve to receive their benefits.

Mr. Speaker, in closing just let me say this. All this is is a temporary raise until next July 1. It goes out of effect then, unless this Congress acts. The fund has $4.6 billion in it right now. Between now and next July it will take $250 million out. That will leave $4,350,000,000 in the fund. It will not be bankrupt or anywhere near bankrupt. Yet it will be giving the benefit to the retired workers. It is something to which they are entitled, and it will give this Congress a chance to act.

I made the promise that if I am reelected and again I am chairman of the committee I would bring it before our committee and try to resolve this before next July 1 so that we can do something about it at that time.

In the light of all the things that have happened, Mr. Speaker, I hope the House in its wisdom will override this veto and by that I do not mean any ill will toward the President. I do not blame him. As I say, I believe it was his advisers. I do not intend to cast any doubts on him.

Mr. VEYSEY. Mr. Speaker, I was surprised and distressed to learn that the President has vetoed the temporary 20-percent railroad retirement increase. I respect Mr. Nixon's commitment to fiscal integrity and want to work with him whenever possible, however, I have to vote to override this veto.

The rise in the cost of living in the last 8 years has exceeded all expectations. People living on fixed incomes are especially vulnerable and, therefore, increases in basic benefits like those provided in the vetoed act are urgently needed. I can see no fair way to distinguish between the increase the President recently signed for social security annuitants and the new benefits provided in the act returned to the House today.

The new benefits are only temporary pending a review of the way the railroad retirement trust fund is financed. There is no question that the present structure needs reforming, but the House Interstate and Foreign Commerce Committee has already announced it intends to take up this subject early in the next Congress. There is no need for a veto to assure action on this. Since the trust fund has enough in it to last another 16 years, I am confident that we will be able to assure its permanent security long before the present system is depleted. I intend to work to be sure we do.

Mr. DANIELS of New Jersey. Mr. Speaker, I rise in support of overriding President Nixon's veto of a bill to provide a temporary 20-percent increase in annuities under the Railroad Retirement Act.

Mr. Speaker, it is safe to say that I represent as many retired railroad employees as any Member of this House. At one time we had more major railroads running through Hudson County, N.J., as any area in the United States. I point this out because I want all Members to know that I am familiar with the problems faced by retired railroad men and women. I meet with these good people each week in my district offices in Union City and Kearny, N.J. I meet retired railroad men and women in the shops in my district, in the streets, and wherever people gather. I can tell every Member of this House that their need is genuine; their plight legitimate.

Mr. Speaker, when the President signed into law Public Law 92–336, increasing social security payments by 20 percent, he indicated that he realized just how badly inflation has hit senior citizens. I cannot imagine how, in view of this, he could ignore most of America's retired persons covered by the Railroad Retirement Act. Mr. Speaker, I urge all Members to join with me in overriding Mr. Nixon's veto.

Mr. BIAGGI. Mr. Speaker, I rise in support of the effort to override the President's veto of the 20-percent railroad retirement pension increase.

It appears that in the pressure of the campaign and the press of other legislative interests, the President was ill advised by the White House bureaucracy to veto this measure. It simply puts the railroad retirees on the same footing as social security recipients and certainly this group of older Americans is just as in need of additional financial help as any other group.

Historically Congress has chosen to keep the railroad retirement pension increases tied with the social security increases. While originally, this fund was more akin to a private pension plan, in the early fifties a series of amendments approved by Congress and signed by the President mated the two in a marriage that has continued to the present day.

Last year Congress authorized an extensive review of the railroad retirement system and asked for recommen-

dations on how to put the fund on a solid financial basis and provide the level of benefits due the retirees. That review has just been completed.

In the next session Congress will act on these recommendations and hopefully correct the many problems that currently beset the railroad retirement system. It would certainly be ill advised at this time to change horses in midstream—as the President's advisers have advocated—by not granting the 20-percent increase to the retirees.

The railroad retiree has worked long and hard for his pension. It is a difficult job with very little on-the-job reward. Yet, no one here today will deny the tremendous role the railroad men have played in America's development and the continued importance of railroads today. These retirees need and deserve this increase. I urge my colleagues to vote to override the President's veto.

Mr. WOLFF. Mr. Speaker, today this body has in its hands the fate of hundreds of thousands of senior citizens, who, in this time of rising affluence and comfort for some, are faced with the herculean task of sustaining themselves on pensions the limits of which were fixed without regard to such things as inflation, economic policies, or the many other variables that serve to reduce our paychecks.

Faced with the near impossibility of making ends meet on a fixed income, and now with their hope of respite vetoed by the President, those who rely on railroad pensions are depending upon us to help. Over recent years, and during the past several months in particular, food prices have skyrocketed. Hospital costs have risen, as have prices for prescription drugs, insurance, clothing, and the like. Property taxes have risen dramatically as well. Retirement benefits have simply not kept pace with this monster inflation and more and more of this Nation's elderly are faced with the degradation of hunger and poverty in their last years.

Mr. Speaker, I strongly condemn the heartless action of the President in vetoing the railroad retirement increase. As the one of those responsible for our inflationary economy, he has taken out his failure to properly reorder our economic priorities on those who exist on fixed incomes and are least able to adjust to the inflationary spiral—ruthlessly cut back on human lives, rather than on unnecessary programs and special interest favors. What sort of fiscal responsibility deprives the poor and the old of the essentials for a decent existence?

I believe we have a responsibility to see that our senior citizens are able to live in dignity and comfort, without the constant fear of poverty. Those who receive pensions have worked hard all their lives, and deserve a decent return for their labors. The dollar amount of their pensions was determined long before the present inflation nullified much of the benefits they earned, and now they are helpless to counter the effects of that inflation.

The runaway economy has created hardship for the elderly; we have seen the course steered for the Nation, and we have watched as our greatest priorities have been set aside.

Yet only last year our Government provided over $100 million to the Penn Central Railroad in the form of loan guarantees; if we can supprt the railroad management, surely we can meet the more modest needs of the railroad retirees.

We cannot ignore the plight of our senior citizens, nor can we satisfy them with platitudes, when we give dollars to the railroads themselves. These retirees deserve only their just due, their pensions which they have earned through hard work over long years. It is vital that we adjust the pensions of the railroad retirees to reflect the realities of today's economic conditions. To do any less would be to abdicate our responsibility to every American who is now working toward a future pension, and to the millions of senior citizens who look to us for affirmative action.

I therefore call upon my colleagues to join with me in voting to override President Nixon's veto of this measure. I know that I cannot ask our senior citizens to bear the weight of the President's fiscal policies, and I hope this House will join with me in rejecting President Nixon's veto.

Mr. PRICE of Illinois. Mr. Speaker, there is one basic issue involved here this afternoon on voting to override President Nixon's veto of the 20 percent railroad retirement increase the Congress approved recently. Our railroad retirees should not be denied benefit increases to which they are rightfully entitled and which they desperately need. It is unconscionable to expect our railroad retirees to wait another 6 months to receive their 20 percent increase. The increased cost of living waits for on one, especially those who are retired and living on fixed incomes.

The question of solvency of the railroad retirement system has been raised. Congress is concerned about the financial health of the system and I am confident that action will be taken next year to insure the system's solvency so that our retirees are fully protected. I cannot accept the President's suggestion that the railroad retirees wait 6, 8 or 9 months while working out a solution.

What concerns me about the President's veto is his consistent reluctance and in this case clear-cut opposition to approve retirement benefits for our older Americans. Many of us recall that the President was reluctant to sign the 20 percent social security increase into law but did so only because Congress had approved it. Unfortunately, in this instance the President's stated reluctance has resulted in a cruel veto of benefit increases for our retired railroad workers.

Mr. Speaker, I strongly support the effort to override President Nixon's veto and I will vote to override it.

Mr. RARICK. Mr. Speaker, I find the President's urging for fiscal responsibility appealing, but I am not persuaded. Where was his fiscal responsibility veto on the revenue sharing bill, the social security increase, the foreign aid giveaway, and a myriad of other extravaganzas and boondoggles which certainly were of questionable fiscal responsibility?

And on the question of fiscal responsibility and bankruptcy we have before us another bill at the President's request, to increase the temporary debt ceiling by $15 billion to a historic high of $465 billion.

Nor am I persuaded by the prophecy of doom that to enact the railroad retirement increases we would bankrupt the fund in 13 years. This bill before us is a temporary measure and I am confident that Congress will be back in session before 13 years have expired and will not betray our stewardship over the railroad retirement fund.

Certainly, I for one, do not believe in making the retired railroad people scapegoats—especially when it comes to their own funds. After all, the reason that they feel forced to seek increases in their retirement benefits must be attributed to the fiscal irresponsibility of the President and this body in deficit spending and fiscal perfidity, which has caused the inflation that now engulfs the retiree.

I intend to cast my people's vote in favor of passage and urge a "yes" vote to override the veto.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The question was taken; and there were—yeas 353, nays 29, not voting 48, as follows:

[Roll No. 407]

YEAS—353

Abbitt	Burke, Fla.	Drinan
Abourezk	Burke, Mass.	Dulski
Abzug	Burleson, Tex.	Duncan
Adams	Burlison, Mo.	du Pont
Addabbo	Burton	Eckhardt
Alexander	Byrne, Pa.	Edwards, Ala.
Anderson, Calif.	Cabell	Edwards, Calif.
Anderson, Ill.	Caffery	Eilberg
Anderson, Tenn.	Carney	Erlenborn
Andrews, Ala.	Carter	Esch
Andrews, N. Dak.	Casey, Tex.	Eshleman
Annunzio	Cederberg	Evins, Tenn.
Archer	Celler	Fascell
Ashbrook	Chamberlain	Fish
Ashley	Chappell	Fisher
Aspin	Chisholm	Flood
Badillo	Clancy	Flowers
Baker	Clark	Flynt
Barrett	Clausen, Don H.	Foley
Begich	Cleveland	Ford, William D.
Bennett	Collins, Ill.	Forsythe
Bergland	Conable	Fountain
Biaggi	Conover	Fraser
Biester	Conte	Frenzel
Bingham	Conyers	Frey
Blackburn	Corman	Fulton
Blanton	Cotter	Fuqua
Blatnik	Curlin	Galifianakis
Boggs	Daniel, Va.	Garmatz
Boland	Daniels, N.J.	Gaydos
Bolling	Danielson	Gibbons
Brademas	Davis, Ga.	Goldwater
Brasco	de la Garza	Gonzalez
Bray	Delaney	Grasso
Brinkley	Dellums	Gray
Brooks	Denholm	Green, Pa.
Broomfield	Dent	Griffin
Brotzman	Derwinski	Griffiths
Brown, Mich.	Dickinson	Grover
Brown, Ohio	Diggs	Gude
Broyhill, N.C.	Dingell	Haley
Broyhill, Va.	Donohue	Hamilton
Buchanan	Dorn	Hammer-schmidt
	Dow	Hanley
	Downing	

Hanna	Melcher	Schwengel
Hansen, Idaho	Metcalfe	Scott
Hansen, Wash.	Mikva	Sebelius
Harrington	Miller, Calif.	Seiberling
Harsha	Miller, Ohio	Shipley
Harvey	Mills, Ark.	Shoup
Hathaway	Mills, Md.	Shriver
Hays	Minish	Sikes
Hechler, W. Va.	Mink	Sisk
Heckler, Mass.	Minshall	Skubitz
Heinz	Mitchell	Slack
Helstoski	Monagan	Smith, Calif.
Henderson	Montgomery	Smith, Iowa
Hicks, Mass.	Moorhead	Smith, N.Y.
Hicks, Wash.	Morgan	Snyder
Hillis	Mosher	Spence
Hogan	Moss	Staggers
Holifield	Murphy, Ill.	Stanton,
Horton	Murphy, N.Y.	J. William
Hosmer	Myers	Stanton,
Howard	Natcher	James V.
Hull	Nedzi	Steed
Hungate	Nelsen	Steele
Hunt	Nix	Steiger, Ariz.
Hutchinson	Obey	Steiger, Wis.
Ichord	O'Hara	Stephens
Jacobs	O'Neill	Stokes
Johnson, Calif.	Passman	Stratton
Johnson, Pa.	Patman	Stubblefield
Jones, Ala.	Patten	Stuckey
Jones, N.C.	Pepper	Sullivan
Jones, Tenn.	Perkins	Symington
Karth	Pettis	Talcott
Kastenmeier	Pickle	Taylor
Kazen	Pike	Teague, Tex.
Keating	Pirnie	Terry
Kee	Poage	Thompson, Ga.
Kemp	Podell	Thompson, N.J.
King	Preyer, N.C.	Thomson, Wis.
Kluczynski	Price, Ill.	Thone
Koch	Price, Tex.	Tiernan
Kuykendall	Pryor, Ark.	Udall
Kyl	Pucinski	Ullman
Kyros	Purcell	Van Deerlin
Landrum	Quie	Vander Jagt
Latta	Quillen	Vanik
Leggett	Railsback	Veysey
Lennon	Randall	Vigorito
Lent	Rangel	Waggonner
Link	Rarick	Waldie
Long, La.	Rees	Wampler
Long, Md.	Reuss	Ware
McClory	Roberts	Whalen
McCloskey	Robison, N.Y.	Whalley
McCollister	Rodino	White
McCulloch	Roe	Whitehurst
McDade	Rogers	Whitten
McEwen	Roncalio	Widnall
McFall	Rooney, Pa.	Wiggins
McKay	Rosenthal	Williams
McKevitt	Rostenkowski	Wilson,
McKinney	Roush	Charles H.
Macdonald, Mass.	Rousselot	Winn
	Roy	Wolff
Madden	Roybal	Wright
Mahon	Runnels	Wyatt
Mailliard	Ruppe	Wydler
Mallary	Ruth	Wyman
Mann	St Germain	Yates
Martin	Sandman	Yatron
Mathis, Ga.	Sarbanes	Young, Fla.
Matsunaga	Satterfield	Young, Tex.
Mayne	Saylor	Zablocki
Mazzoli	Scherle	Zion
Meeds	Scheuer	Zwach

NAYS—29

Arends	Crane	Jonas
Belcher	Davis, Wis.	Keith
Betts	Dellenback	Landgrebe
Byrnes, Wis.	Dennis	Michel
Camp	Findley	Mizell
Carlson	Ford, Gerald R.	Pelly
Clawson, Del	Frelinghuysen	Schneebeli
Collier	Gubser	Springer
Collins, Tex.	Hall	Wilson, Bob
Colmer	Jarman	

NOT VOTING—48

Abernethy	Gallagher	McMillan
Aspinall	Gettys	Mathias, Calif.
Baring	Giaimo	Mollohan
Bell	Goodling	Nichols
Bevill	Green, Oreg.	O'Konski
Bow	Gross	Peyser
Byron	Hagan	Powell
Carey, N.Y.	Halpern	Reid
Clay	Hastings	Rhodes
Coughlin	Hawkins	Riegle
Culver	Hébert	Robinson, Va.
Davis, S.C.	Lloyd	Rooney, N.Y.
Devine	Lujan	Schmitz
Dowdy	McClure	Teague, Calif.
Dwyer	McCormack	Wylie
Edmondson	McDonald, Mich.	
Evans, Colo.		

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bow.
Mr. Rooney of New York with Mr. Devine.
Mr. Nichols with Mr. Goodling.
Mr. Davis of South Carolina with Mr. O'Konski.
Mr. Reid with Mr. Bell.
Mr. Carey of New York with Mr. Hastings.
Mr. Bevill with Mr. Powell.
Mr. Abernethy with Mr. Robinson of Virginia.
Mr. Hawkins with Mr. Gallagher.
Mr. Culver with Mr. Lloyd.
Mr. Evans of Colorado with Mr. McDonald of Michigan.
Mr. Giaimo with Mr. Coughlin.
Mr. Gettys with Mr. Riegle.
Mrs. Green of Oregon with Mrs. Dwyer.
Mr. Byron with Mr. Mathias of California.
Mr. Baring with Mr. Clay.
Mr. McCormack with Mr. Halpern.
Mr. Aspinall with Mr. Lujan.
Mr. Edmondson with Mr. McClure.
Mr. Mollohan with Mr. Peyser.
Mr. Rhodes with Mr. Wylie.
Mr. Hagan with Mr. Schmitz.
Mr. McMillan with Mr. Teague of California.

Mr. DICKINSON and Mr. MILLER of Ohio changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members 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.

CONFERENCE REPORT ON H.R. 7117, FISHERMEN'S PROTECTIVE ACT AMENDMENTS

Mr. DINGEL (on behalf of Mr. GARMATZ) filed the following conference report and statement on the bill (H.R. 7117) to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92-1523)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7117) to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of United States vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 6, 7, 8, and 9.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, and 5, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

On page 1, line 4, of the Senate engrossed amendments, strike out "certify" and insert the following: certifies; and the Senate agree to the same.

EDWARD A. GARMATZ,
JOHN D. DINGELL,
THOMAS M. PELLY,
Managers on the Part of the House.

WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7117), to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of United States vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The following Senate amendments made technical, clarifying, or conforming changes: 1, 2, 4, 5, and 6. With respect to these amendments (1) the House recedes from its disagreement; or (2) the Senate recedes in order to conform to other actions agreed upon by the committee of conference.

Amendment No. 3: The House bill amended section 5 of the Fishermen's Protective Act of 1967, in part, to require that upon the failure or refusal of a foreign country which seized a United States fishing vessel to pay (within 120 days after notification) a claim of the United States for any reimbursement made by the Treasury to the vessel owner (for fines, fees, charges, damages, and losses incurred by the owner incident to the seizure), the Secretary of State shall transfer the amount of the claim from any funds programmed to that country under the Foreign Assistance Act of 1961 for the current fiscal year to the Fishermen's Protective Fund or to the separate account established in section 7(c) of the Act (depending upon the nature of the reimbursement). The House bill further provided that if the programmed funds for any foreign country are inadequate for such purposes in any year, the transfer will be made from funds so programmed for any succeeding year. Senate amendment numbered 3 would prohibit any such transfer if the President certifies to Congress that it is in the national interest not to do so. The House recedes with a clerical amendment. It is understood that if the President decides to apply the provision of Senate amendment numbered 3 to unreimbursed claims arising from the seizure of more than one United States vessel by a particular country on the same day or within a period of several days, he may include all such claims within one certification to Congress.

Amendments Nos. 7, 8, and 9: Senate amendment numbered 7 would add a new section 4A to the Fishermen's Protective Act of 1967 to authorize the Secretary of Commerce to provide reinsurance (through contracts, agreements, and other arrangements)

to insurance carriers to cover any excess losses incurred by such carriers on claims for losses resulting from storm damage to commercial fishing property (including vessels and gear). Premium rates for such reinsurance would be established by the Secretary and a separate revolving fund would be established to finance the reinsurance program.

Senate amendment numbered 8 would establish a program under which the Secretary of Commerce is authorized to make grants to commercial fishing operators to enable them to meet those usual business expenses of their fishing operations which they would ordinarily be able to meet but are unable to do so because of the imposition of any prohibitive Federal or State restriction designed to prevent the deterioration of the quality of the aquatic environment. The amendment would also provide that any such grant made to a person would operate as an assignment of the rights of that person to the Secretary of Commerce to recover damages against any party whose commission of, or failure to commit, acts resulted in the imposition of the Federal or State restriction.

Section 7 of the Fishermen's Protective Act of 1967 presently authorizes the Secretary of Commerce to enter into agreements with fishing vessel owners to reimburse any such owner for damages to his vessel or vessel gear and for other losses which are incurred incident to seizure by a foreign government. Senate amendment numbered 9 would extend such reimbursement provisions to cover such damages and losses when caused, under certain conditions, by a vessel operated by a foreign government.

The House bill contained no provisions comparable to Senate amendments numbered 7, 8, and 9.

The managers on the part of the House, while recognizing that these Senate amendments (which were adopted as floor amendments) are addressed to very real problems now affecting the commercial fishing industry, reluctantly could not agree to them. The amendments are complex in nature and were not subject to hearings in the House. Therefore, with the assurance that hearings in the House on the legislative proposals contained in Senate amendments numbered 7, 8, and 9 will be held early in the 93d Congress, the Senate recedes.

EDWARD A. GARMATZ,
JOHN D. DINGELL,
THOMAS M. PELLY,
Managers on the Part of the House.

WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
TED STEVENS,
Managers on the Part of the Senate.

COMPENSATION OF CERTAIN OFFICERS OF THE HOUSE OF REPRESENTATIVES

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration I ask unanimous consent for the immediate consideration of House Resolution 890.

The Clerk read the resolution as follows:

H. RES. 890

Resolved, That, (a) until otherwise provided by law, the per annum gross rate of compensation of the Clerk, the Doorkeeper, the Sergeant at Arms, and the Chief of Staff of the Joint Committee on Internal Revenue Taxation of the House of Representatives, shall be equal to the annual rate of basic pay fixed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) Until otherwise provided by law, such amounts as may be necessary to carry out subsection (a) of this resolution shall be paid out of the contingent fund of the House of Representatives.

(c) This resolution shall become effective on the effective date of the first adjustment, following the effective date of this resolution, in the annual rate of basic pay of offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

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

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask our colleague, the gentleman from Ohio, if a copy of this resolution and/or any accompanying report are available?

Mr. HAYS. They are, and have been.

Mr. HALL. Mr. Speaker, under the reservation may I further say that I have been informed another resolution was coming up first. But that is par for the course around here nowadays.

May I further ask what the intent of this resolution is? Would the gentleman give us some sort of explanation of what it is?

Mr. HAYS. Mr. Speaker, the intent of the resolution is that if and when there is another adjustment in salaries of Members of Congress that the officers mentioned herein will be placed in a lower grade level so that there will be a wider gap between the salary of the Doorkeeper and that of a Member of Congress. At the present time the salary of a Member of Congress, as the gentleman from Missouri well knows, is $42,500. The Doorkeeper's salary is $40,000. There has been a lot of criticism and comment. This does not do anything to him and the others now. It does not do anything to him and others until and unless there is an increase in the income of Members, and then it puts them at a lower level.

For example, if a Member of Congress say—and I am picking a figure out of the air—went up to $47,500, the Office of Doorkeeper would go up to something like $42,000 instead of $45,000.

Mr. HALL. Mr. Speaker, as the gentleman from Ohio well knows, I have often stated on the floor of this House that I thought that the income of the House officers, clerical, and assistant help of the officers that we select should be generally reviewed. I hope his example re our own salaries is not predicatory, or in anticipation.

What would be the comparative effect of this in the legislative branch with the officers so paid at the same level in the executive branch?

Mr. HAYS. It would put these gentlemen at level 4, which would be at the level in the executive branch of Assistant Secretaries, members of commissions and boards, the top level that they could reach, the same as the top of an Assistant Secretary of State and a member of the Federal Communications Commission.

Mr. HALL. Would it put our chief officers employed under this level 4—and I understand the incumbents are grandfathered in pending the next Congress—at a lower level than most of those appointed at the same base and for similar duties in the executive branch?

Mr. HAYS. No; it would not. I would say it would not.

Mr. HALL. Mr. Speaker, I withdraw my reservation, and I appreciate the gentleman's explanation.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FOR THE RELIEF OF DONALD W. WOTRING

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11047) for the relief of Donald W. Wotring, 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 6, strike out "$688.26" and insert "$662.61".

Page 1, line 7, strike out "beginning July 1, 1967, and ending" and insert "January 1, 1967, through".

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

FOR THE RELIEF OF CPL. BOBBY R. MULLINS

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11629) for the relief of Cpl. Bobby R. Mullins, 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:

Page 2, line 7, strike out "of" and insert "from".

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

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

RESEARCH ON AGING ACT OF 1972

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14424) to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes, with Senate amendments thereto, and consider the Senate amendments.

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 SPEAKER. The Clerk will report the Senate amendment to the text of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION. 1. This Act may be cited as the "Research on Aging Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(1) that the study of the aging process, the one biological condition common to all, has not received research support commensurate with its effects on the lives of every individual;

(2) that, in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

(3) that recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

(4) that there is no American institution that has undertaken, or is now capable of undertaking, comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel;

(5) that the establishment of a National Institute on Aging within the National Institutes of Health will meet the need for such an institution.

SEC. 3. Title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART G—NATIONAL INSTITUTE ON AGING

"ESTABLISHMENT OF NATIONAL INSTITUTE ON AGING

"SEC. 461. The Secretary shall establish in the Public Health Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the 'Institute') for the conduct and support of biomedical, social, and behavioral research and training relating to the aging process and the diseases and other special problems and needs of the aged.

"ESTABLISHMENT OF ADVISORY COUNCIL

"SEC. 462. (a) There is established in the Institute a National Advisory Council on Research on Aging to be composed of sixteen members, as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Council.

"(2) Twelve members appointed by the Secretary. Each of the appointed members of the Council shall be leaders in the fields of fundamental sciences, medical sciences, behavioral and social sciences, or public affairs. Six of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to gerontology; three of the appointed members shall be selected from the leading authorities who are skilled in aspects of the social or behavioral sciences relating to aging; and three of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed for the remainder of such term; and shall be appointed

"(B) of the members first appointed after the effective date of this section, three shall be appointed for a term of four years, three shall be appointed for a term of three years, three shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Upon appointment of the Council it shall assume all of the functions, powers, and duties relating to research on aging of the National Advisory Child Health and Human Development Council established pursuant to section 443(a), and all of the functions, powers, and duties of the National Advisory Health Council, or its successors, under section 301 with respect to research or training projects relating to aging.

"(4) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Chairman of the Council shall be appointed by the Secretary from among the members of the Council and shall serve as Chairman for a term of two years.

"(d) The Director of the Institute shall (1) designate a member of the staff of the Institute to act as executive secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(e) The Council shall meet at the call of the Director of the Institute or of the Chairman, but not less often than four times a year.

"FUNCTIONS

"SEC. 463. (a) The Secretary shall, through the Institute, carry out the purposes of section 351 with respect to research, investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged, except that the Director of the National Institutes of Health shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of section 301 through the Institute or another institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter, and shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses) as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under the Public Health Service Act or any other Act, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging.

"(c) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute sponsored and other relevant aging research and studies, and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"SEC 464. (a) The Secretary, in consultation with the Institute (acting through the Council) and such other appropriate advisory bodies as he may establish, shall within one year after the effective date of this section develop a plan for an aging research program designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this Act or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

"(b) The plan required by subsection (a) of this section shall be transmitted to the Congress and the President and shall set forth the staffing and funding requirements to carry out the program contained therein."

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to concur in the Senate amendment to the text of the bill with an amendment, as follows: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Research on Aging Act of 1972".

FINDINGS AND DECLARATION OF PURPOSES

SEC. 2. The Congress hereby finds and declares—

(1) that the study of the aging process, the one biological condition common to all, has not received research support commensurate with its effects on the lives of every individual;

(2) that, in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

(3) that recent research efforts point the

way toward alleviation of the problems of old age by extending the healthy middle years of life;

(4) that there is no American institution that has undertaken, or is now capable of undertaking, comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel;

(5) that the establishment of a National Institute on Aging within the National Institutes of Health will meet the need for such an institution.

SEC. 3. Title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART G—NATIONAL INSTITUTE ON AGING

"ESTABLISHMENT OF NATIONAL INSTITUTE ON AGING

"SEC. 461. The Secretary shall establish in the Public Health Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the 'Institute') for the conduct and support of biomedical, social, and behavioral research and training relating to the aging process and the diseases and other special problems and needs of the aged.

"NATIONAL ADVISORY COUNCIL ON AGING

"SEC. 462. (a) The Secretary shall establish a National Advisory Council on Aging to advise, consult with, and make recommendations to him on programs relating to the aged which are administered by him and on those matters which relate to the Institute.

"(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 432(a) shall be applicable to the Advisory Council established under this section, except that the Secretary may include on such Advisory Council such additional ex officio members as he deems necessary. The Secretary shall appoint to the Council leading medical or scientific authorities skilled in aspects of the biological and the behavioral sciences related to aging.

"(c) Upon appointment of such Advisory Council, it shall assume all, or such part as the Secretary may specify, of the duties, functions, and powers of the National Advisory Health Council relating to programs for the aged with which the Advisory Council established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council established under this Act relating to programs for the aged.

"FUNCTIONS

"SEC. 463. (a) The Secretary shall, through the Institute, carry out the purposes of section 301 with respect to research, investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged, except that the Director of the National Institutes of Health shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of secton 301 through the Institute or another institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter, and shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses) as he deems necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under the Public Health Service Act or any other Act, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by him.

"(c) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute sponsored and other relevant aging research and studies, and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"SEC. 464. (a) The Secretary, in consultation with the Institute (acting through the Council) and such other appropriate advisory bodies as he may establish, shall within one year after the effective date of this section develop a plan for an aging research program designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this Act or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

"(b) The plan required by subsection (a) of this section shall be transmitted to the Congress and the President and shall set forth the staffing and funding requirements to carry out the program contained therein."

SEC. 2. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

"PART G—MENTAL HEALTH OF THE AGED

"GRANTS FOR FACILITIES AND STAFFING

"SEC. 281. (a) Grants may be made to public or non-profit private agencies and organizations (1) to assist them in meeting the costs of construction of facilities to provide mental health services for the aged within the States, and (2) to assist them in meeting a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the operation of a facility for mental health of the aged constructed with a grant made under part A of this section or for the operation of new services for mental health of the aged in an existing facility.

"(b)(1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of the aged.

"(2) No grant shall be made under this section with respect to any facility unless the applicant for such grant provides assurances satisfactory to the Secretary that such facility will make available a full range of treatment, liaison, and followup services (as prescribed by the Secretary) for the aged in the service area of such facility who need such services, and will, when so requested, provide consultation and education for personnel of other community agencies serving the aged in such area.

"(3) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ percentum (or 90 percentum in the case of a facility providing services in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c) Grants made under this section for costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

"(d)(1) There are authorized to be appropriated for the fiscal year ending June 30, 1973, (A) $5,000,000 for grants under this section for construction, and (B) $15,000,000 for initial grants under this section for compensation of professional and technical personnel and for training and evaluation grants under section 282.

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next six fiscal years such sums as may be necessary to continue to make grants with respect to any project under this section for which an initial staffing grant was made from appropriations under paragraph (1) (B) for the fiscal year ending June 30, 1973.

"TRAINING AND EVALUATION

"SEC. 282. The Secretary is authorized, during the period beginning July 1, 1972, and ending with the close of June 30, 1973, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of the aged, or developing inservice training or short-term or refresher courses with respect to the provision of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of the aged within the United States with a view to determining ways and means of improving, extending, and expanding such programs."

Mr. STAGGERS. Mr. Speaker, the amendment presently before the House has been cleared with the gentleman from Illinois (Mr. SPRINGER), the author of the original bill, and with the ranking members of the Subcommittee on Public Health and Environment.

Members will recall the House passed a bill creating a National Institute of Aging, and establishing a program at community mental health centers for the mental health of the aged. The Senate amended the bill to eliminate the program of mental health of the aged, and this amendment restores the original language of the House bill in this regard.

The Senate amended the bill to establish an advisory council, with rather detailed requirements as to the composition of the membership. This amendment provides that the advisory council shall be the same as other advisory coun-

cils of the National Institutes of Health, but also provides that there shall be appointed to the council leading medical or scientific personnel skilled in aspects of the biological and the behavioral sciences relating to aging. Rather than specifying the numbers of such persons to serve on the council, the amendment leaves it to the discretion of the Secretary. The amendment we are considering now provides that the Secretary shall take appropriate steps to insure the education and training of adequate manpower, and provides that the Secretary shall develop a plan for an aging research program.

Mr. Speaker, I know of no objection to the amendment, and urge its adoption by the House.

This restores it to the House language the way it originally went to the Senate.

Mr. Speaker, I yield now to the gentleman from Illinois.

Mr. SPRINGER. Mr. Speaker, I want to express my appreciation to the distinguished chairman. I think this is the only bill I have had in the last 10 years. I could not remember the last one. I appreciate the gentleman bringing it up. The Senate has been kind enough to work on it today, so we might possibly get it back from the Senate. Again I express my deep thanks to the gentleman.

The amendment to the Senate amendment was agreed to.

The SPEAKER. The Clerk will report the Senate amendment to the title of the bill.

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

Amend the title so as to read: "An Act to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging."

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House concur in the amendment of the Senate to the title of the bill.

The motion was agreed to.

The Senate amendments, as amended, were concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2770, FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1146 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1146

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2770) to amend the Federal Water Pollution Control Act, and all points of order against said conference report for failure to comply with clause 3, Rule XXVIII are hereby waived.

Mr. O'NEILL. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution is a simple one that speaks for itself. Rule XXVIII is hereby waived, if we adopt the resolution from the Committee on Rules. The conference committee added amendments to the water pollution bill that were neither in the House nor in the Senate bill and consequently a rule of this type is required.

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Massachusetts (Mr. O'NEILL) has already made clear the reason for the request by the Committee on Public Works for a waiver of points of order.

Mr. Speaker, I hold in my hand a list of 12 specific instances in which it is believed that in violation of clause 3 of rule XXVIII the committee of conference did go beyond the scope of both the House bill and the Senate bill and therefore violated the rule and made it necessary for us to adopt the resolution waiving points of order for that reason.

Mr. Speaker, I include with my remarks at this time the memorandum to which I have just referred.

The memorandum referred to follows:

MEMORANDUM: RE POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON THE BILL (S. 2770) TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

The conference report is subject to a point of order on the ground that House conferees have exceeded their authority under clause 3, Rule XXIII by including provisions which go beyond the scope of the Senate bill and the House amendment in the nature of a substitute in *at least* the following instances:

1. Section 101(a)(2)—the interim goal of water quality is set for achievement by July 1, 1983, rather than 1981 as provided in both the Senate bill and House substitute (see p. 100 of joint statement).

2. Section 114—conferees substituted one year study of Lake Tahoe Basin for the demonstration project in the Senate bill (see p. 108 of joint statement).

3. Section 115 of conference report re in-place toxic pollutants is not in either bill (see p. 109 of Statement).

4. Section 202—conferees agreed to 75% federal share for sewage treatment facilities in every case—higher than either bill, (p. 110 of joint statement).

5. Section 205 allotment ratio based on table in House P.W. committee print—not in either bill. (p. 113, joint statement).

6. Section 208—area wide waste treatment management requires areawide planning process to be in operation within one year—2 yrs. in both bills; and the authorization for fiscal 1975 is not in either bill.

7. 301(b)(1) extends date for effluent limitations beyond either bill to July 1, 1977, for best practicable technology, and beyond either bill to July 1, 1983 for best available technology.

8. Water quality inventory sec. 305—reporting dates extended beyond either bill to January, 1975.

9. Section 307(c), (d) not in either bill (see p. 130 of joint statement).

10. Clean lakes—section 314 contains authorization for fiscal 1975, not in either bill.

11. Section 315 establishes National Study Commission in lieu of National Academies of Sciences study in Senate bill—beyond scope (see p. 136 of joint statement).

12. Section 405 not in either bill (re disposal of sewage sludge) see p. 142–43 of joint statement).

Mr. Speaker, I am also going to address several questions to the distinguished gentleman from Ohio (Mr. HARSHA), the ranking Republican member of the Committee on Public Works because of the concern I have with some of the provisions of the bill and the conference report and the possible interpretation of that report as they relate to the Atomic Energy Act.

Mr. Speaker, I note that pollutant is defined in section 502(6) so as to include radioactive materials. This was also true of both S. 2770 as passed by the Senate and the House so there has been no change in this respect. S. 2770 as passed by the Senate did not amend the Atomic Energy Act as interpreted in Northern States Power against Minnesota and as affirmed by the Supreme Court with respect to State authority over nuclear materials and facilities, as was made clear by a colloquy between Senators MUSKIE and PASTORE in the course of debate on the measure, and in the House an amendment to H.R. 11896 intended to give States authority beyond that allowed by the Atomic Energy Act was rejected. The conferees' statement does not indicate that any change in this matter is intended—indeed section 101(f), declaring a national policy to prevent needless duplication and unnecessary delays at all levels of government, reinforces the earlier House and Senate action on this matter. Nevertheless, I should like to confirm my understanding that the bill as reported by the Conferees is not intended to change the careful division of authority between the States and the Federal Government over nuclear materials and facilities under the Atomic Energy Act as enunciated in Northern States Power against Minnesota and affirmed by the Supreme Court.

Mr. HARSHA. The gentleman is quite correct. The conference report does not change the original intent as it was made clear in the colloquy between Senators MUSKIE and PASTORE in the course of the debate in the other body. I also note that an amendment to H.R. 11896 was offered on March 28, 1972, which would have overturned the Northern States Power against Minnesota case.

The distinguished gentleman from California (Mr. HOLIFIELD) spoke in opposition to the amendment and pointed out the necessity of not changing the careful division of authority between the States and the Federal Government over nuclear materials and facilities as enunciated in the Northern States case. The amendment was defeated by a 3-to-1 vote of the House.

I can say to the gentleman from Illinois that the managers in no way detracted from the intent of the language in H.R. 11896. I also note that the Committee on Public Works in its report on H.R. 11896 stated on page 131 that the term "pollutant" as defined in the bill includes "radioactive materials." These materials are not those encompassed in the definition of source, byproduct, or special nuclear materials as defined by the

Atomic Energy Act of 1954, as amended, and regulated pursuant to that act. "Radioactive materials" encompassed by this bill are those beyond the jurisdiction of the Atomic Energy Commission. Examples of radioactive materials not covered by the Atomic Energy Act, and, therefore, included within the term "pollutant" are radium and accelerator produced isotopes. This language adequately reflects the intent of the managers of the conference report.

Mr. ANDERSON of Illinois. I thank the gentleman from Ohio.

My second question is, I note that section 301(f) of the bill contains a prohibition on the discharge of high level radioactive waste into the navigable waters. In the absence of a definition of this term in the bill, I would assume that the common meaning of the term within the nuclear scientific community would apply. As I understand it, the term has a fairly precise meaning to the nuclear scientific community—it includes only the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors. Nevertheless, I should like to confirm that my understanding is correct in this matter.

Mr. HARSHA. Will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. HARSHA. The gentleman asked if the term "high level radioactivity wastes" includes only the aqueous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels or irradiated fuel from nuclear power reactors. The answer to this is that it includes these same materials but it is not limited to only these materials. However, it is the intent of the managers that the term "not limited to" includes only those materials of a similar nature. It is not intended to expand upon the definition of the term "high level radioactive wastes."

Mr. ANDERSON of Illinois. I thank the gentleman from Ohio.

My final question relates to a special section which has been included dealing with thermal effects—section 316. Is my understanding correct that limitations under section 316(a) are intended to generally operate in place of any other limitations on thermal effects that might otherwise be imposed under the bill, including limitations under sections 301, 302, and 306? Such would certainly seem to be the case since under section 303(e) water quality standards relating to heat must be consistent with section 316.

Mr. HARSHA. Will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. HARSHA. The gentleman's understanding is not completely correct. The definition of the term "pollutant" includes "heat." Because of this the limitations under sections 301, 302, and 306 do apply to heat. Section 316(a) is intended to provide modifications over effluent limitations or standards of performance under these other sections because the managers recognize that heat should be treated in a different manner than the other pollutants. They are not, however, intended to operate in place of any other limitations, but instead are intended to operate when the requirements of section 316(a) can be achieved.

Mr. ANDERSON of Illinois. I thank the gentleman from Ohio. I think, as this colloquy has perhaps illustrated to all the Members of the House, this is a truly monumental bill and conference report. There are some difficult questions of interpretation involved which we have attempted to clarify in this colloquy between myself and the gentleman from Ohio.

I think, in general, that the conference committee and conferees on the part of the House are to be commended on very ably performing their duties and upon returning this legislation to us in the form that it is.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. I thank the gentleman from Illinois (Mr. ANDERSON) for yielding to me.

I should like to address a question to the gentleman from Ohio (Mr. HARSHA). I agree with the gentleman from Ohio (Mr. HARSHA) that it is necessary that the treatment works grant construction funds be expended in the most efficient and effective manner. I agree that where appropriate we must use the latest technology available in order to protect our Nation's waterways. Because I agree with the gentleman on this point, I commend him, the rest of the members on the Committee on Public Works, and the members who have brought to the House today a water pollution bill which will greatly assist in the program to clean up our Nation's waters. I am concerned, however, that the requirements for the study of alternative waste management techniques will result in the inappropriate use of land disposal of the wastes of the city of Chicago. Specifically, I am concerned that the language could be interpreted to encourage land disposal over the other advanced waste treatment techniques. For example, the Corps of Engineers has recently published a report containing a proposal to use 244,000 acres in my district to treat sewage for the city of Chicago. At least 51,000 acres of this land would have to be purchased outright by the Government to be used for storage and sludge lagoons. Needless to say, I and my constituents are totally opposed to such a program. It would require the displacement of thousands of people from their land. It would have a very adverse economic effect on the areas involved—at least 51,000 acres of land would be removed from the tax rolls, and thousands of acres of rich farmland would be taken out of production. Thus not only the people displaced from their land, but also those living in the surrounding communities would suffer great loss. Therefore, because of the great social, economic, and environmental impact that such a plan would have on the people in my district, I must ask for the gentleman's assurance that no money appropriated under S. 2770 could possibly be used for purchase of land for open treatment and storage of sewage in Indiana.

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

Mr. LANDGREBE. I am glad to yield to the gentleman from Ohio.

Mr. HARSHA. I thank the gentleman for yielding.

I thank the gentleman for his comments on the bill. I certainly want to point out that the gentleman has expressed great concern over this particular problem and the effects of this legislation on his district. He raised that concern when we had the matter before the House. He then again called it to my attention a number of times and expressed concern about the effects it possibly could have in the area of or the near vicinity of the district he represents.

In answering the gentleman I would say no, it is not the intent of the managers that any new project of this magnitude proceed without thorough evaluation and study and local input. I might add that a project of this type probably would require somewhere between 3 to 10 more years of additional study.

I should like also to point out to all those concerned, and this is why I was instrumental in including advance waste treatment techniques in this bill, that there can be benefits from land disposal. Land that is utilized for sewage disposal can be the recipient of free irrigation water and fertilizer. It may be possible that the productivity of such land would be increased twofold or threefold.

In no event, however, would it be intended to exercise the right of eminent domain to take anything approaching 247,000 acres. On the contrary, a much smaller amount of land would be required, if the project were demonstrated to be feasible and if the States of Indiana and Illinois agreed to proceed.

Local and State authorities must take additional action before any waste water management system is implemented. I can assure the gentleman that the public will have a voice in this decision.

Mr. Speaker, I have spoken with the chairman of managers, Mr. ROBERT JONES of Alabama. I can assure my friend from Indiana that Mr. JONES has reviewed my answer to you and concurs. My answer also represents his views.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 additional minute.

I noted the presence on the floor of the gentleman from Alabama (Mr. JONES), the chairman of the subcommittee, during the colloquy which I had a few minutes ago with the gentleman from Ohio (Mr. HARSHA), concerning the question of the interpretation of various sections of this bill, and also a colloquy over whether or not the bill as reported had changed the present division of authority between the States and the Federal Government over nuclear facilities and materials under the Atomic Energy Act, as enunciated in the Northern States Power against Minnesota case.

I would like at this time to ask the gentleman from Alabama (Mr. JONES), if he does in fact agree in all respects with the interpretation that has been given us on these matters by the gentleman from Ohio (Mr. HARSHA).

I yield to the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. I listened very carefully, Mr. Speaker, to the explanation made by the gentleman from Ohio (Mr. HARSHA), and I am totally in agreement with his explanation and his understanding of what is intended in this conference report.

Mr. ANDERSON of Illinois. I thank the gentleman from Alabama.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. Mr. Speaker, I wonder if the gentleman from Alabama (Mr. JONES) would respond to a question, if it please the Speaker?

Mr. JONES of Alabama. What is the gentleman's inquiry?

Mr. LANDGREBE. Mr. HARSHA and I had a rather lengthy colloquy about the usage or the possibility of open storage of sewage in adjoining States that might be under this bill.

Mr. JONES of Alabama. I listened very carefully, Mr. Speaker, to the explanation made by the gentleman from Ohio (Mr. HARSHA), and I am totally in agreement with his answer.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. O'NEILL. 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.

Mr. JONES of Alabama. Mr. Speaker, I call up the conference report on the bill (S. 2770) to amend the Federal Water Pollution Control Act, 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 Alabama?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 28, 1972.)

Mr. JONES of Alabama (during the reading). Mr. Speaker, I ask unanimous consent the further reading of the statement of the managers be dispensed with.

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

There was no objection.

Mr. JONES of Alabama. Mr. Speaker, I yield myself 5 minutes.

Mr. JONES of Alabama. Mr. Speaker, let me read the following:

> A river is more than an amenity, it is a treasure. It offers a necessity of life that must be rationed among those who have power over it.

That was an utterance of the Honorable Oliver Wendell Holmes.

That was our concept when we as conferees met at the very inception in the consideration of this bill and wrote this as a theme for our conference. I assure you that we have been loyal to that notion, and I am pleased that we could bring to you a conference report that I think you will overwhelmingly support, and be pleased with.

Mr. Speaker, I rise to urge the Members of this body, with all the vehemence at my command, to approve the conference report on the 1972 Water Pollution Control Act.

I rise to call for approval of this report by a margin so overwhelming that it will proclaim to all Americans that Congress has the will and the leadership to save our priceless waters from the degradation that is fast destroying them.

I trust that every Member of the House has taken time to study the many substantive provisions of this necessarily long and complex report. Having done so, I am confident they will share my conviction, and that of my colleagues on the conference committee, that this report is a landmark in environmental legislation. In our judgement, Mr. Speaker, it is substantially better and more effective legislation than either of the original bills on which we began our conference negotiations almost 5 months ago.

Much of the credit for this accomplishment must go to the eight Members on both sides of the aisle who shared these prolonged and often difficult negotiations with me. The distinguished chairman of the Public Works Committee, JOHN A. BLATNIK, who has been leading the fight for clean water since we entered Congress together away back in 1946, and who must surely regard this as a milestone in his career; BILL HARSHA, of Ohio, the ranking minority member of the committee and a strong right arm in the conference; Congressman JIM WRIGHT, of Texas; "BIZZ" JOHNSON and DON H. CLAUSEN, of California; BOB ROE, of New Jersey; JIM GROVER, of New York; and CLARENCE E. MILLER, of Ohio; each of them has earned the gratitude of the House and of the citizens they serve.

These outstanding legislators are thoroughly familiar with the conference report and are in accord with its provisions.

The objective of this legislation is to restore and preserve for the future the integrity of our Nation's waters. The bill sets forth as a national goal the complete elimination of all discharges into our navigable waters by 1985, but, and I call this most emphatically to the attention of the House, the conference report states clearly that achieving the 1985 target date is a goal, not a national policy. As such, it serves as a focal point for long-range planning, and for research and development in water pollution control technology.

The conference report declares that it is the national policy to control the discharge of toxic pollutants; to provide Federal financial assistance for the construction of publicly owned waste treatment plants and sewage collection systems in existing communities that are an integral part of the treatment process; to develop and implement areawide waste treatment management planning processes; to foster a major research and demonstration program in the field of water pollution control; and to protect and preserve the primary responsibilities and rights of the separate States in our national antipollution effort.

Each of these national policies is implemented in substantive sections of the bill.

While it is our hope that we can succeed in eliminating all discharge into our waters by 1985, without unreasonable impact on the national life, we recognized in this report that too many imponderables exist, some still beyond our horizons, to prescribe this goal today as a legal requirement.

Under certain conditions, the Administrator of the Environmental Protection Agency could require a category or class of industry to go directly to "no discharge" by July 1, 1983, if he determines that it is technologically and economically achievable. Before making such a determination, however, the conference managers expect that the Administrator would make a thorough review of the economic impact of such action and that the burden of proof for such action would rest upon him.

SECTIONS 301–304

Title III of the conference report contains many of the basic provisions for standards and enforcement. Included are section 301(b)(1)(A), which requires point sources to achieve by July 1, 1977, effluent limitations which require the application of "best practicable control technology currently available" and section 301(b)(2)(A) which requires point sources to achieve by July 1, 1983, effluent limitations which require the application of "best available technology economically achievable."

It is the intention of the managers that the July 1, 1977, requirements be met by phased compliance and that all point sources will be in full compliance no later than July 1, 1977. Discharge permits issued by th Administrator or by the States should include any applicable implementation plans established under existing water quality standards.

If the owner or operator of a given point source determines that he would rather go out of business than meet the 1977 requirements, the managers clearly expect that any discharge issued in the interim would reflect the fact that all discharges not in compliance with such "best practicable control technology currently available" would cease by June 30, 1977. In any event, the discharge would have to be consistent with any applicable water quality standards including implementation plans.

By the term "best practicable" the managers mean that all factors set forth in section 304(b)(1)(B) are to be taken into consideration. With the exception of modifications of section 301 requirements for the discharges of heat which may be made pursuant to section 316(a), the determination of the "best practicable control technology currently available" is not to be based upon the existing quality of the receiving waters. The managers expect that the total cost of application of technology in relation to the effluent limitation benefits to be achieved will always be a factor used by the Administrator in his determination of "best practicable control technology currently available" for a given category or class of point source.

The term "total cost of application of technology" as used in section 304(b)(1)

(B) is meant to include those internal, or plant, costs sustained by the owner or operator and those external costs such as potential unemployment, dislocation, and rural area economic development sustained by the community, area, or region.

By the term "control technology" the managers mean the treatment facilities at the end of a manufacturing, agricultural, or other process, rather than control technology within the manufacturing process itself.

By the term "currently available" the managers mean the control technology, which, by demonstration projects, pilot plans, or general use, has demonstrated a reasonable level of engineering and economic confidence in the viability of the process at the time of commencement of actual construction of the control facilities.

The House managers were determined and successful in their efforts to make sure that the factors in sections 304 (b) (1) (B) and 304(b) (2) (B) relating to the assessment of "best practicable control technology currently available" and "best available technology economically achievable," respectively, included consideration of nonwater quality environmental impact, including energy requirements. The managers believe that it would be foolhardy to credit one environmental account and debit another by the same action. Their intent is that the assessment of "best practicable control technology currently available" shall be such that the net effect on water and other environmental needs will be positive and beneficial, and that other impacts of water quality environmental efforts would not negate the overall benefit of the achievement of higher water quality.

I might note that the managers, and, in particular, my friend and fellow House manager from Ohio, Mr. MILLER, was adamant that energy requirements should be a factor to be considered. He will speak later on this.

The Administrator may modify the July 1, 1983, requirements applicable to any point source other than publicly owned treatment works, upon a satisfactory showing to the Administrator by the owner or operator of the point source that a modification will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants. This provision in section 301(C) authorizes a case-by-case evaluation of any modification to the July 1, 1983, requirement purposed by the owner or operator.

The managers expect the Administrator to adopt a reasonable approach to determinations under this provision. When the term "economic capability" is referred to, it means the economic capability of the given point source.

This provision is not intended to justify modifications which would not represent an upgrading over the July 1, 1977, requirements of "best practicable control technology."

By the term "best available demonstrated technology economically achieveable," the managers mean those plant processes and control technologies which, at the pilot plant or semiworks level, have demonstrated both technological performance and economic viability sufficient to reasonably justify the making of investments in new production facilities.

I should like to direct attention to section 102(b) which provides for an amendment to existing law which deals with the inclusion of conservation storage in Federal reservoirs for the purpose of regulating stream flow. In 1962, Senator Kerr and I joined in sponsoring the original legislation. Both of us strongly believed that to provide for the effective use of water resources, the planning of Federal reservoirs should, where economically justified, make provision for storage to improve the quality of the water in our streams.

The present law specifically provides that such storage and waste release should not be used as a substitute for adequate treatment or other methods of controlling waste at the source. In my judgment, this legislation has made a major contribution to the effective use of our water resources. I know of no instance where such storage has been used as a substitute for the construction of waste treatment facilities.

The Senate conferees felt strongly that low flow augmentation might result in "pollution through dilution" and for that reason the full responsibility for low flow augmentation should be given to the Administrator of the Environmental Protection Agency.

Although I do not personally agree with this conclusion, I have reluctantly gone along with it. I do this only with an understanding that the other purposes which can be served by low flow storage, such as navigation, salt water intrusion, recreation, esthetics and fish and wildlife for which additional storage is proposed may stand on its own.

The conferees therefore accepted an amendment which gives the EPA Administrator the responsibility for determining the need for, and the value of, storage for water quality proposed by a Federal agency for inclusion in the reservoir. However, the responsibility for the other purposes for which storage for regulation of stream flow remains with the Federal agencies planning the construction.

In the case of any of the purposes for which low flow augmentation storage is included for the regulation of stream flow, the beneficiaries must be identified and if the benefits are widespread or national in scope, the costs are to be borne by the Federal Government. This would now hold true for navigation, recreation, or any other purpose as it formerly did solely for water quality.

With respect to section 204(b), the Administrator may take into consideration: First, the purpose of achieving an area wide system, stated in section 201 (c); and second, the limiting factor of the cost of independent facilities to an industrial user, in determining the portion of the cost of construction applicable to an industrial user, taking into account, among other things, the interest on capital. The user would otherwise pay.

With respect to section 307(b), I would note that in the case of biological waste, principally that which results from brewing and food processing and which is compatible with, and which indeed stimulates the performance of municipal treatment works, I understand that it is not the intention that pretreatment be required under the bill.

Such wastes are high in carbohydrate feeding material, which is biodegradable and necessary and useful in the consumption of the phosphate and nitrogenous material in household and industrial waste. Pretreatment of biological waste by breweries and food processing plants will require duplication of primary treatment works throughout the country and the addition to the effluent of breweries and food processing plants of phosphates and nitrates in order for such pretreatment works to operate properly. To require such pretreatment works will dot the United States with miniature treatment works and result in the inefficient use of resources.

In answer to questions raised regarding changes made in section 402, relating to State permit programs, and in section 403, relating to ocean discharges, the record should show that the authority of the States to develop and administer a permit program under section 402 for discharges into the territorial sea is the same as the authority under section 402 for a State permit program for other discharges. It is the responsibility of the Administrator of EPA to establish guidelines for State permit programs. The factors and considerations involved in setting guidelines for territorial sea discharges would necessarily differ in some respects from those established for discharges into other navigable waters. For example, the Administrator should consider the unique situation in States where geography and other such factors have a substantial impact on the effects of the discharges on receiving waters.

Once guidelines are established for a State permit program under section 402, whether for discharges into the territorial sea or other navigable waters it is intended that the State shall have primary responsibility for determining whether a discharge complies with the guidelines. If the State fails to carry out its responsibility or misuses the permit program, the Administrator is fully authorized to withdraw his approval of the State plan or in the case of an individual permit which does not meet regulations and guidelines in the act, preclude the issuance of such permit. It is intended, however, that the Administrator shall not take such action except upon a clear showing of failure on the part of the State to follow the guidelines or otherwise to comply with the law.

The intent of section 511(c) of the conference report is to clarify certain relationships between the National Environmental Policy Act of 1969 and the actions of the Administrator of EPA.

Under existing law, the provisions of NEPA do not apply to the environmental protective regulatory activities of EPA. The intent of the Congress was clear on that point at the time NEPA was enacted in 1969. On December 23, 1969, when the House considered the conference report on S. 1075—NEPA—the following exchange took place between Congressman Fallon, the chairman of the Committee

on Public Works, and Congressman DINGELL, floor manager of the bill:

Mr. FALLON. What would be the effect of this legislation on the Federal Water Pollution Control Agency?

Mr. DINGELL. Many existing agencies such as the Federal Water Pollution Control Agency have important responsibilities in the area of environmental control. The provisions of section 102 and 103 are not designed to result in any changes in the manner in which they carry out their environmental protection authority. This provision is primarily designed to assure consideration of environmental matters by agencies in their planning and decision-making—but most especially those agencies who now have little or no legislative authority to take environmental considerations into account.

A similar record was made in the Senate. In a summary of major changes adopted by the conference committee which Senator JACKSON, primary sponsor and floor manager of NEPA, included in the RECORD, the following statement appears:

Many existing agencies such as the National Park Service, the Federal Water Pollution Control Administration, and the National Air Pollution Control Administration already have important responsibilities in the area of environmental control. The provisions of section 102 (as well as 103) are not designed to result in any change in the manner in which they carry out their environmental protection authority.

It is not the intent of the Senate conferees that the review required by section 103 would require existing environmental control agencies such as the Federal Water Pollution Control Administration and National Air Pollution Control Administration to review their statutory authority and regulatory policies which are related to maintaining and enhancing the quality of the environment. This section is aimed at those agencies which have little or no authority to consider environmental values. (S. 17458–12/20/69)

Senator MUSKIE made the following statement as regards Senator JACKSON'S explanation:

It is clear then, and this is the clear understanding of the Senator from Washington and his colleagues, and those of us who serve on the Public Works Committee, that the agencies having authority in the environmental improvement field will continue to operate under their legislative mandate as previously established, and that those legislative mandates are not changed in any way by Section 102–5. (P. 17458–12/20/69)

The NEPA guidelines of the Council on Environmental Quality—36 Federal Register 7724, April 23, 1971—which deal with the preparation of detailed statements pursuant to section 102(2)(C) of NEPA accurately reflect the intent of Congress that EPA is not subject to the requirements of NEPA.

The conferees on S. 2770 determined, however, that the impact statement and balancing analysis requirements of NEPA would serve to reinforce two specific actions of the Administrator: The making of waste treatment grants under section 201 and the issuance of a permit under section 402 to a new source as defined in section 306 of the Federal Water Pollution Control Act, as it will be amended by this bill. Therefore, section 511(c)(1) of the conference report extends the various provisions of NEPA to those two actions of the Administrator but to no others.

The language of section 511(c)(1) uses the phrase "major Federal action significantly affecting the quality of the human environment," a phrase found in section 102(2)(C) of NEPA. Some have suggested that section 511(c)(1) might therefore be construed in such a way that all of the provisions of NEPA other than section 102(2)(C) could be held applicable to the actions of the Administrator. As a conferee, I want to make it as clear as I know how that such a crabbed interpretation of section 511(c)(1) would thoroughly frustrate the intent of the conferees and of the Congress. The term "major Federal action" has become synonomous with NEPA. The conferees of both Houses clearly intended that all of the provisions of NEPA would apply to section 201 grants and section 402 permits for new sources and that none of the provisions of NEPA would apply to any other action of the Administrator. That is what the section says and that is what it means.

I refer my colleagues to the joint statement of managers on page 149 of Report 92–1236. The conferees state:

If the actions of the Administrator under this Act were subject to the requirements of NEPA, administration of the Act would be greatly impeded.

We do not say "one of the requirements of NEPA." We do not say "some of the requirements of NEPA." We say "the requirements of NEPA." It could not be more clear.

Many, many man-years of effort have gone into the preparation of the legislation now pending before the House. The Congress has given to the Administrator the most explicit guidance that it could contrive as to what factors and parameters he is to take into account in the administration of this act. If NEPA were construed as requiring him to comply with substantive or procedural requirements extraneous to the Federal Water Pollution Control Act, the very purpose of this bill—the establishment of a detailed, comprehensive, effective program to regulate the discharge of pollution into the Nation's waters—would be imperiled.

Section 511(c)(2) is intended to obviate the need for other Federal agencies to duplicate the determinations of the States and EPA as to water quality considerations. Section 511(c)(2) is not intended in any way to relieve any Federal licensing or permitting agency other than EPA from its full responsibilities under NEPA to include water quality considerations in any balancing analysis that may be made of any major Federal action as required by that act.

I would close by paying a well deserved tribute to the staff of the Public Works Committee. They provided invaluable assistance to all the conferees during the long, difficult period of the conference. I commend the entire staff and in particular Dick Sullivan, Clif Enfield, Carl Schwartz, with exceptional praise to Les Edelman, Gordon Wood, and last but not least, my good friend, the legislative counsel, Bob Mowson. His draftmanship is indelibly imprinted on this major piece of legislation.

I offer for the RECORD a summary of the major substantive provisions of this legislation and a statement of the authorizations contained in the report. Mr. Speaker, I ask approval of this conference report.

Mr. Speaker, I include the following:

THE HIGHLIGHTS OF THE HOUSE-SENATE CONFERENCE REPORT

FUNDING

Total Federal spending authorized in the Conference agreement is slightly over $24.6 billion, approximately the same amount provided in the original House bill. The Senate version called for approximately $20 billion. The Administration had asked for $6 billion to be spread over three years.

GRANTS TO MUNICIPALITIES

The Conference accepted a House provision authorizing $18 billion in contract obligation authority for Federal grants to municipalities, through fiscal year 1975, for construction of waste treatment plants, including sewage collection systems. The Senate bill authorized $14 billion for this purpose but did not include the collection systems.

Additionally, the bill gives authorizations to an appropriation already approved by Congress, amounting to $350 million, to fund the grant program for the fiscal year which ended last June 30.

Of the $18 billion authorization, $5 billion would be applied to fiscal year 1973, $6 billion to fiscal year 1974, and $7 billion to fiscal year 1975.

Because of the contract obligation provision, no significant impact would be felt on Federal spending until fiscal 1975, when the first major appropriations would be required to pay off the contracted obligations.

ALLOCATION OF SEWAGE TREATMENT GRANTS

Federal grants for construction of municipal treatment plants would be distributed on the basis of need within the separate States, as determined by the Environmental Protection Agency's latest study for the years 1972–74, the "Economics of Clean Water Report."

The original House bill would have allotted the grants on the basis of need, but using an earlier study as its base. The Senate version would have distributed the grants among the States on the basis of population.

FEDERAL SHARE OF TREATMENT PLANT COSTS

The Federal government will provide 75 percent of the cost of constructing a community's waste treatment plant, leaving it up to the States and local municipalities to work out the funding of the remaining 25 percent.

The original House bill would have permitted grants up to 75 percent of the total cost and the Senate bill up to 70 percent, but only if the States contributed at least 15 percent in the House bill and 10 percent in the Senate bill.

DEADLINES FOR INDUSTRIAL COMPLIANCE

The Conference agreement requires all industries discharging into the Nation's waters to apply the best practicable control technology by July 1, 1977, and the best available technology by July 1, 1983. The original deadlines in both the House and Senate bills were January 1, 1976, and January 1, 1981, but the Conferees agreed to push those dates forward because of the time consumed in completing Congressional action.

In enforcing the 1977 "best practicable technology" regulation, the Environmental Protection Agency (EPA) would take into account the total impact of the action on plants within a given category (e.g., steel, chemical, paper) considering overall financial ability to comply, and the national impact of compliance on communities and workers.

In enforcing the 1983 "best available technology" regulation, EPA must consider whether such application is economically achievable by the category or class of industries affected, and, at the same time, will result in reasonable progress toward the national goal of eliminating all water pollution.

STANDARDS

The Conference agreement provides for continuation of the water quality standards already in existence, *plus* limitations on the amount of effluents a plant may discharge into any of the Nation's waters. In every case, the effluent limitations must be sufficiently stringent to maintain the quality of the water as prescribed by the standards, but effluent limits will be a minimum measure of compliance.

IMPACT STUDY

The Conference agreement requires that a study be undertaken into the environmental, technological, economic, and social effects that would result from enforcing the 1983 "best available" regulation on industry and attaining the 1985 goal of pollution-free water. The study will be undertaken by a 15-member Commission, five each to be appointed by the President, the House, and the Senate, utilizing the resources of government and private research organizations.

The original House bill would have required that the study be conducted by the National Academies of Science and Engineering and that, upon receipt of the report, Congress would have to take affirmative action before the "best available" regulations would be triggered into operation.

The Conferees accepted the Senate position that no such "trigger action" would be required.

ENVIRONMENTAL FINANCING

The Conference accepted a House provision establishing an environmental financing mechanism with an initial authorization of $100 million, to help hard-pressed communities obtain capital for their share of waste treatment plant construction costs. The agreement limits the life of the mechanism to three years. This provision was not in the Senate bill.

PERMITS

The Conference agreement directs the EPA Administrator to establish guidelines within which the separate States must operate their permit programs. Each State program must be approved by EPA and is subject to takeover by EPA if the State fails to live up to its responsibility.

Pending issuance of the Federal guidelines, those States which have workable, approved permit programs will continue to operate those programs, subject to a permit-by-permit veto by EPA.

After the guidelines have ben promulgated, EPA will no longer have this permit-by-permit veto power, except under two specific conditions:

1. Where a State permit does not conform to the guidelines and requirements of the law; or

2. Where the Governor of a down-stream State demonstrates that his waters are being polluted by permitted effluent discharge in another State.

Permits already issued to industries under the 1899 Refuse Act will be considered as permits under the new legislation, and vice versa, leading to a phasing out of the 1899 Act's application to water pollution control.

The original House bill had no provision for permit-by-permit veto power to be vested in EPA. The Senate version made no provision for an interim State program pending issuance of the Federal guidelines but would have given EPA continuing permit-by-permit veto power.

DREDGE MATERIAL DISPOSAL

The Conference agreement accepted a provision similar to the original House language establishing a separate permit program for the disposal of dredged or fill material in the Nation's waters, to be administered by the Corps of Engineers.

Under this program, permits would be issued, after notice and opportunity for public hearings, for disposal of such material at specified sites. The sites would be selected in compliance with guidelines developed by EPA in conjunction with the Corps of Engineers. The EPA Administrator is empowered to forbid or restrict the use of specified areas whenever he determines that disposal of material at a site would have an unacceptable adverse effect on municipal water supplies, shellfish, and fishery areas, or recreational activities in a given site.

The Senate bill would have treated dredge and fill materials under the general permit program and made no provision for a separate program.

CITIZEN SUITS

The Conference agreement provides for citizen suits against the government or a private interest for violation or failure to carry out mandatory provisions of the law. The Conferees agreed that such suits may be pursued only where the citizen, or citizen group, has an interest in the matter in litigation, in accordance with the U. S. Supreme Court's 1972 decision, Sierra Club vs. Morton.

ENVIRONMENTAL IMPACT STATEMENTS

With the exception of construction of publicly-owned waste treatment plants and permits granted for the discharge of pollutants by new sources, no actions taken by the Environmental Protection Agency will be subject to the requirements for environmental impact statements of the National Environmental Protection Act (NEPA).

PERMIT JURISDICTION

The Conference agreement provides that nothing in the National Environmental Protection Act may be construed as the basis for the establishment by other Federal agencies of more stringent controls on the discharge of pollutants than those provided under this Act, nor are such agencies authorized to review or alter effluent limitations issued under this Act.

THERMAL DISCHARGES

The Conference agreement provides that the EPA Administrator may waive the requirements of Sections 301 and 306 of the Act (concerning thermal discharges) if the owner or operator of the source of the thermal discharge demonstrates to the Administrator that the given thermal discharge could be at a higher level than required under Sections 301 and 306 and still be in accordance with water quality standards or otherwise assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made.

AUTHORIZATIONS CONTAINED IN CONFERENCE REPORT ON S. 2770

	1972	1973	1974	1975	Total
Sec. 104:					
Research, investigations, and information		$100,000,000	$100,000,000		$200,000,000
General subsec. (u)					
Training (g)(1)		7,500,000			7,500,000
Forecasting (g)(2)		2,500,000			2,500,000
Agriculture (p)		10,000,000	10,000,000		20,000,000
Aquatic ecosystems (r)		15,000,000	15,000,000		30,000,000
Thermal pollution (t)		(10,000,000)	(10,000,000)		(20,000,000)
Total		135,000,000	125,000,000		260,000,000
Section 105: Grants for research and development		75,000,000	75,000,000		150,000,000
Sec. 106 (a): Grants for pollution control programs		60,000,000	75,000,000		135,000,000
Sec. 107(e): Mine water pollution control demonstration		[1] 15,000,000			[1] 15,000,000
Sec. 108(c):					
Pollution control in Great Lakes		[2] (20,000,000)			[2] (20,000,000)
(e) Lake Erie study		5,000,000			5,000,000
Sec. 112: Training grants and contracts, scholarships under sec. 109 through 112		25,000,000	25,000,000		50,000,000
Sec. 113: Alaska village demonstration projects		[3] 1,000,000			[3] 1,000,000
Sec. 114: Lake Tahoe study		500,000			500,000
Sec. 115: In place toxic pollutants		15,000,000			15,000,000
Sec. 206: Reimbursement and advanced construction:					
June 30, 1966, to July 1, 1972		2,000,000,000			2,000,000,000
June 30, 1956, to June 30, 1966		750,000,000			750,000,000
Sec. 207: Waste treatment works		5,000,000,000	6,000,000,000	$7,000,000,000	18,000,000,000
Sec. 208(1): Areawide waste treatment management		50,000,000	100,000,000	150,000,000	300,000,000
Sec. 208(h)		50,000,000	50,000,000		100,000,000
Sec. 209: Water Resources Council, basin planning		200,000,000			200,000,000
Sec. 305: Supplemental funds to implement Federal programs		100,000,000	100,000,000		200,000,000
Sec. 314: Clean Lakes		50,000,000	100,000,000	150,000,000	300,000,000
Sec. 315: National Study Commission		15,000,000			15,000,000
Sec. 317: Financing study		1,000,000			1,000,000
Sec. 517: General authorization		250,000,000	300,000,000	350,000,000	900,000,000
Sec. 3:					
Waste treatment works	$350,000,000				350,000,000
Research	6,000,000				6,000,000
Sec. 8: Small business loans		800,000,000			800,000,000
Sec. 10: National policies and goals study		5,000,000			5,000,000
Sec. 12: Environmental Financing Act		100,000,000			100,000,000
Grand total	356,000,000	9,702,500,000	6,950,000,000	7,650,000,000	24,658,500,000

[1] This is an addition to an existing authorization of $15,000,000.
[2] This is an existing authorization.
[3] This is an addition to an existing authorization of $1,000,000.

NOTE

This table does not include $35,000,000 revolving fund authorized in 1970 to handle oil and hazardous substances which have not been changed by S. 2770.
Figures in parenthesis are nonadd items.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. JONES of Alabama. Mr. Speaker, I yield myself 2 additional minutes, and I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Speaker, I seek an answer or reassurance from the floor manager on a brief question about the conference report. The committee report on the House version stated that its various provisions applied to the prevention of future water quality problems as well as to the abatement of existing ones. The question is do the provisions of the conference report also apply in this manner so that its program and funds are also available to control any potential water pollution control or eutrophication problems of the authorized Tocks Island Reservoir project?

Mr. JONES of Alabama. I assure the gentleman that the conference report contemplates the control of the water quality problems of the authorized Tocks Island Reservoir, as well as the prevention and abatement of other future and existing water quality problems.

Mr. THOMPSON of New Jersey. Mr. Speaker, I thank the distinguished gentleman from Alabama, and I congratulate the committee.

Mr. JONES of Alabama. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Speaker, I shall be as brief as possible in my remarks. My fellow conferees will follow with an orderly section-by-section presentation of this complicated bill.

My main mission here, Mr. Speaker, is to first rise and urge the strongest and most overwhelming support for this conference report. I wish to express my deep, heartfelt thanks to my fellow conferees on both sides of the aisle for the extraordinary patience and legislative skill they demonstrated in drafting a water pollution control bill that will, without any question in my mind, get America started on the tremendous job of restoring the integrity of her rivers, streams, lakes, and shores.

Mr. Speaker, this is the day I have been looking forward to since I first came to Congress more than 26 years ago and began what was then a pretty lonely fight for our endangered water environment.

The resounding vote of approval that I anticipate for this conference agreement today will more than justify the uphill fight of our Public Works Committee and the frequent frustrations of those years.

The legislation before the House today, to which every Member of the Public Works Committee has made outstanding contribution, is not a victory for the position taken in conference by the House or that of the Senate. It is a victory for the people of this Nation and for the future of this Nation, whose very survival depends on the survival of our waters.

Mr. Speaker, I cannot praise too highly the work of my good friend and colleague, BOB JONES. In one of the most extraordinary demonstrations of leadership, knowledge of complicated subject material, patience, and negotiating skill I have seen in my 26 years in Congress, BOB JONES steered this bill through the emotionally supercharged atmosphere that surrounded it in and outside the conference room, and the conference finally emerged with a sound, solid, realistic, and workable program.

BOB JONES' leadership, together with the splendid cooperation and participation by the able and well-informed ranking minority member, BILL HARSHA, backed by the superb work of the entire House delegation, and supported by the outstanding work on the part of the committee staff, gave the Congress and the Nation a bill which is substantively much better, and more effective, than either body brought into conference when we first sat down at the conference table last May.

This is an enormously complex bill, as it must be, to solve the enormous, and complex problem of protecting our water resources.

It has also been referred to as "an enormously costly" bill.

That may be too.

But we have no choice. We must act now, and must be willing to pay the bill now—or face the task of paying later when, perhaps, no amount of money will be enough.

Neither our Nation's waters, nor the patience of our people, will permit us to delay. The time has passed when either the Congress or the executive branch can afford to waste time, or shop for a bargain basement solution to water pollution control.

The great technological genius of our people, the will and energy to master any problem, are ready to be harnessed for the cleanup effort.

This legislation now before the House provides the mechanism, the tools, and the money, to get the job done.

Let us accept the challenge, heed the American people, and send this bill to the President for enactment.

In his state of the Union message to this Congress on January 20 of this year, President Nixon pressed us for action on this legislation.

He said:

> The forces which threaten our environment, will not wait while we procrastinate.

I agree with Mr. Nixon.

In his state of the Union message 2 years earlier, the President had this to say about the issue that is before the House today:

> The great question of the seventies is shall we surrender to our surroundings, or shall we make our peace with nature and begin to make reparations for the damage we have done to our air, our land, and our water?

And in that same January of 1970, almost 3 years ago, President Nixon declared that—

> The 1970's absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters, and our living environment. It is literally now or never.

Mr. Speaker, I concur in the President's judgment. It is literally now or never. I call for approval of this conference report.

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

Mr. BLATNIK. I am happy to yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I should like to associate myself most wholeheartedly with the remarks made by the distinguished chairman of our full committee, the gentleman from Minnesota (Mr. BLATNIK) particularly as they apply to the diligent and painstaking leadership on the part of the gentleman from Alabama (Mr. JONES) during the course of this long and gruelling conference under circumstances which lasted for hours, seemingly interminably, and which would have tried the patience of Job. Through it all BOB JONES persevered as the leader of our group from the House of Representatives. I think he did as fine a job as I have ever seen before, a truly outstanding performance.

Mr. BLATNIK. I thank the gentleman, who was a very effective member of the conference.

Mr. HARSHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 2 years ago, Congress passed a resolution pledging to "work to identify and overcome all that degrades our earth, skies, our water and the living things so that the end of the environmental decade of the 1970's may see our environment immeasurably better than at the beginning."

In carrying out this pledge, a major responsibility rested with the Public Works Committee in both Chambers of Congress to formulate strong, effective laws to clean up and preserve our Nation's water resources. Mr. Speaker, I am proud to report that we have before us today legislation which constitutes a giant step toward achieving this goal and fulfilling our environmental pledge: the conference report on S. 2770, the 1972 Amendments to the Federal Water Pollution Control Act.

I am proud to be one of the managers bringing this conference report to the House. I am proud because I believe it is the greatest environmental legislation ever before Congress. It is designed to bring about the level of water quality our Nation requires and deserves.

Many months and long hours of investigation, deliberation, and very hard work have gone into this legislation. The managers on the part of the House come before you today with the report after having met with the other body 39 different times. It goes without saying that it was not easy to arrive at a conference report and that many points required extensive discussions and some compromises on the part of both Houses.

It was trying at times for both body and soul. We should recognize that we are indebted to the chairman of the Committee of Conference, the distinguished gentleman from Alabama, a leader in the Public Works Committee, our own Mr. ROBERT JONES. His leadership in the House, and in the conference made this bill possible. His leadership was firm but fair—forceful and effective. I am personally grateful for his leadership; we all should be.

I commend the other House managers for their diligence, regular attendance and unified approach in all of our delib-

erations. It was a privilege to serve also with Mr. BLATNIK, Mr. WRIGHT, Mr. JOHNSON of California, Mr. ROE, Mr. GROVER, Mr. DON H. CLAUSEN, and Mr. MILLER of Ohio.

I would also like to recognize the efforts of Richard Sullivan, Clifton Enfield, Lester Edelman, Carl Schwartz and Gordon Wood of the House Public Works Committee staff, and Robert Mowson of the House Legislative Counsel's Office, who, along with the rest of our staff, all worked in a diligent, competent and dedicated manner in assisting the Public Works Committee and the Committee of Conference in bringing about this landmark legislation. They did indeed rise above and beyond the normal call of duty.

Mr. Speaker, I repeat, I am proud to be here this afternoon because I believe that we have developed the most significant environmental legislation in the history of the Congress. I believe this is a strong and effective piece of legislation.

In looking back to when the House of Representatives passed its bill on March 29, I might comment that the media and certain persons cried out that the House had passed a weak water pollution control bill, while the other body has passed a strong one. I say to you today that those statements were reminiscent of the "know nothings" in political campaigns of years past. The bill, as passed by the House of Representatives was not a weak bill. Quite the contrary, it was a most forceful bill. The House chose to recognize that water pollution control does not exist in a vacuum isolated from other environmental and economic considerations. The House recognized that in our efforts to solve our pressing environmental problems, we must not set others in motion. Balance, as well as strength, must be an inherent part of our pollution abatement efforts.

At the time that H.R. 11896 was being considered by the House, I pointed out that it was being criticized by both environmental and industrial organizations. I further pointed out that I was pleased because this was an indication that we had struck the balance that we intended to achieve.

I repeat to you today that we did achieve the necessary balance in the House bill. I also say to you that the work product of the Committee of Conference also strikes this balance and is superior to the original bills passed by both the House and the other body. We were successful in our endeavor to develop water pollution legislation which will meet the needs of our country and, at the same time, be consistent with our environmental needs. It is the kind of strong beginning for the environmental decade that promises we will see our Nation's water resources immeasurably better. Indeed, we have set our goal for pollution-free water by 1985 and come before you today with the best workable tools to achieve it.

Mr. Speaker, this is the most comprehensive, complicated, and technical pollution control legislation that this House has ever had before it. Therefore, I believe it is necessary for me to comment on certain topics of the conference report in a manner to establish a clear understanding of a number of sections it contains.

Mr. Speaker, I want to discuss briefly why this conference report calls for the sum of money it does for construction of publicly owned waste treatment works. In the first place the same figure was passed by the House in March.

The report recognizes the need for an increased treatment works construction program. This need was graphically demonstrated in the hearings held by the Committee on Public Works. This need is recognized in the report and in the language of the legislation where a needs formula is used to allocate grant funds to individual States.

I believe the committee has accurately assessed the need for such a large sum of money. Furthermore, I want to point out that the elimination of the word "all" before the word "sums" in section 205(a) and insertion of the phrase "not to exceed" in section 207 was intended by the managers of the bill to emphasize the President's flexibility to control the rate of spending.

I might add, while this legislation does provide for contract authority, the present administration recommended contract authority in H.R. 18779, the bill I introduced in behalf of the administration some time ago.

Furthermore, let me point out, the Committee on Public Works is acutely aware that moneys from the highway trust fund have been impounded by the Executive. Expenditures from the highway trust fund are made in accordance with similar contract authority provisions to those in this bill. Obviously expenditures and appropriations in the water pollution control bill could also be controlled. However, there is even more flexibility in this water pollution control bill because we have added "not to exceed" in section 207, as I indicated before.

Surely, if the administration can impound monies from the highway trust fund which does not have the flexibility of the language of the water pollution control bill, it can just as rightly control expenditures from the contract authority produced in this legislation by that same means.

Second, I would like to point out that the Administrator of the Environmental Protection Agency must approve plans, specifications, and estimates. This is the pacing item in the expenditures of funds. It is clearly the understanding of the managers that under these circumstances the Executive can control the rate of expenditures.

Furthermore, I would like to call the attention of the Executive to the table on Page 147 of House Report 92-911; the report of the Committee on Public Works on H.R. 11896. This table demonstrates that the first major impact of obligations from the $5 billion authorizations for the fiscal year ending June 30, 1973, is in fiscal year 1975. During that year the appropriations required for payment for obligations authorized by this legislation would only be $2,450,000,000. The appropriations will be spread out over the period of construction of these waste treatment projects and would not be felt in any appreciable sum until fiscal year 1975, some 2 or 3 years hence.

As a matter of fact, for fiscal year 1973 if all the money were obligated and placed under contract, there would only be $20 million needed to meet the obligations and in fiscal year 1974 there would only be the necessity of appropriating $250 million. Obviously there is not a severe impact on the economy for the next 3 years under this legislation.

Finally Mr. Speaker, this House is considering an expenditure limitation of $250 billion. That in itself is a further impediment to inflationary pressures and could dictate that authorized expenditures for treatment works would have to be reduced.

Mr. Speaker, as I stated in my introductory remarks, water pollution control cannot exist in a vacuum, isolated from other considerations of the Federal Government.

The committee recognizes there are many competing national priorities. That is the very reason the committee has placed in this legislation the flexibility that is needed for the executive branch.

The committee also recognizes that the Nation's waters must be allowed to benefit from the control and improvements which can be brought about by this important legislation.

The bill provides the tools necessary to do the job, and I urge my colleagues overwhelmingly to approve this conference report.

Mr. Speaker, I believe it is very important that the new treatment works construction programs authorize the latest technologies to the maximum extent possible. We must encourage the utilization of "advanced waste treatment techniques." Because I strongly believe in this, I have been an advocate within the Committee on Public Works, the House, and the Committee on Conference for making the necessary provisions in this legislation.

Section 201(b) of the conference report provides that waste treatment plants and practices shall provide for consideration of "advanced waste treatment techniques." Section 201(g)(2)(A) of the conference report provides that the Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, unless the grant applicant has successfully demonstrated to the Administrator that—

Alternative waste treatment management techniques have been studied and evaluated and the work proposed for grant assistance will provide for the application of the best practicable waste treatment technology under the life of the works.

It is the intent of the managers that the language in section 201(b) and 201(g)(2)(A) requires that all planning and construction receiving Federal grant funds after the dates provided in the conference report shall be required to consider alternative advanced techniques. It is intended that there be a showing to the Administrator prior to his making any grant for treatment works construction, that the alternative advance waste management techniques

have been studied and evaluated and that the selection of the treatment techniques to be used in any new or modified treatment works will reflect advanced waste treatment management technology where it is practicable.

One of the techniques which is expected to be studied and evaluated is land disposal including aerated treatment-irrigation technology. In certain cases, such treatment offers significant benefits to the areas or region. Nutrients which would be harmful when introduced into our waterways in excessive quantities could be used to enrich farm and forest lands and increase crop yields. Irrigation water could be provided. It is not meant by this that land disposal is the preferred alternative in all cases but the managers clearly intend to emphasize that such advanced techniques as land disposal must be evaluated in all cases in the planning process and prior to the awarding of construction grants. A meaningful review of the alternatives and a showing of the grounds for the selection of the techniques to be utilized must be made.

Section 108(d) directs the Corps of Engineers to design and develop a demonstration waste treatment management program for Lake Erie. The Corps of Engineers is to submit a plan and financing recommendations to Congress for statutory approval. The plan is to set forth alternative systems for managing waste water on a regional basis. While this section is intended to encourage the Muskegon type process for land disposal, I emphasize that the Muskegon process for land disposal has not been completely proven and it may not be the best alternative for all areas of the country.

We should thoroughly evaluate this alternative in those cases where land conditions are such that we can recycle our water and the nutrients in waste water which are useful on agricultural lands.

Section 303 contains the requirements for water quality standards and implementation plans. This section has been one of the most misunderstood parts of the conference report. The misunderstandings have continued from the day the original report of the Committee on Public Works on H.R. 11896 became public. I would at this time like to end these misunderstandings once and for all and point out that those individuals were wrong who stated that this was intended to be a weakening of the effluent limitations approach and a continuation of the old water quality standard based approach to water quality control which did not prove to be effective as it could have been.

Section 303 provides that existing water quality standards shall remain in effect if they are consistent with the applicable requirements of the Federal Water Pollution Control Act as in effect prior to the enactment of this conference report. Section 303 requires the setting of water quality standards for the intrastate waterways which are consistent with the same applicable requirements. If the State standards are consistent with the applicable requirements, the Administrator shall approve these standards. If, on the other hand, they are inconsistent with the applicable requirements, the Administrator is required to indicate to the States what the deficiencies are, and if the States do not correct the deficiencies in a timely manner, the Administrator is required to promulgate the necessary standards. Standards shall be reviewed and updated if necessary at least every 3 years.

Section 301(b)(1)(C) requires that water quality standards shall be achieved not later than July 1, 1977. The water quality standard requirements are not intended to be in lieu of the technological requirements for 1977 but are required to be the basis for water quality control if they are more stringent than the effluent limitations determined by "best practicable control technology currently available." For example, if there are a multitude of point sources on a given stretch of water, the potential of exceeding the water quality standards, exists even though each point source is meeting best practicable control technology. If "best practicable control technology" in this or in any other situation is inadequate to meet the water quality standards, the managers clearly intend that each point source shall be required to meet effluent limitations which would be consistent with the applicable water quality standard.

I hope this review eliminates the widely held misunderstanding of the intent of section 303. It is intended to be a supplement to the 1977 and 1983 requirements.

Section 303 contains provisions for the identification of waters where the technological standards are not stringent enough to implement applicable water quality standards. For these waterways, the States are required to establish load limits which are to be approved by the Administrator. These load limits would indicate, for those pollutants which are suitable for such calculations, the maximum quantity which can be discharged into the water and still not result in a violation of the water quality standards. It is believed that this information is needed for planning and enforcement and the managers expect that the States and the Administrator will be diligent and will make these studies in a timely fashion.

The SPEAKER. The time of the gentleman has expired.

Mr. HARSHA. Mr. Speaker, I yield myself 3 additional minutes.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, the gentleman from Ohio has made a very excellent presentation and as I listened I thought he answered the major question that I have in my mind. I am for the conference report, but I think it is vitally important that the intent and purpose of section 207 is spelled out in the legislative history here in the discussion on this conference report.

As I understand the comments of the gentleman from Ohio, the inclusion of the words in section 207 in three instances of "not to exceed" indicates that is a limitation. More importantly that it is not a mandatory requirement that in 1 year ending June 30, 1973, there would be $5 billion and the next year ending June 30, 1974, $6 billion and a third year ending June 30, 1975, $7 billion obligation or expenditure?

Mr. HARSHA. I do not see how reasonable minds could come to any other conclusion than that the language means we can obligate or expend up to that sum—anything up to that sum but not to exceed that amount. Surely, if the Executive can impound moneys under the contract authority provision in the highway trust fund, which does not have the flexible language in this bill, they could obviously do it in this instance.

Mr. GERALD R. FORD. Mr. Speaker, I would like to ask the distinguished chairman of the subcommittee and the chairman of the House conferees whether he agrees with the gentleman from Ohio (Mr. HARSHA).

Mr. JONES of Alabama. Mr. Speaker, if the gentleman will yield. My answer is "yes." Not only do I agree with him, but the gentleman from Ohio offered this amendment which we have now under discussion in the Committee of Conference, so there is no doubt in anybody's mind of the intent of the language. It is reflected in the language just explained by the gentleman from Ohio (Mr. HARSHA).

Mr. GERALD R. FORD. Mr. Speaker, this clarifies and certainly ought to wipe away any doubts anyone has. The language is not a mandatory requirement for full obligation and expenditure up to the authorization figure in each of the 3 fiscal years. Therefore, without any reservations Mr. Speaker, I support the conference report.

Mr. HARSHA. I thank the gentleman from Michigan.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

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

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the conference report on S. 2770.

Mr. JONES of Alabama. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I rise in support of this conference report, although I have some misgivings concerning certain features of the report, as I will note in more detail.

Clearly, the conferees deserve considerable credit for the time and effort they have each personally put into this legislation in trying to strengthen and substantially improve the Federal Water Pollution Control Act so that it becomes a meaningful and effective anti-water-pollution law. Their efforts have not been helped by the administration and by the polluters, who have sought at every turn to delay and to weaken this legislation.

I think generally the bill is a good bill, but I note that there are problem areas.

At this point, I would like to direct a question to the chairman of the committee with regard to section 402(k) of the bill and section 4(a) of the bill.

It is my understanding that section 402(k) of the bill would grant to any dis-

charger of waste into our Nation's water total immunity from prosecution under the Federal Water Pollution Control Act and under the Refuse Act until the end of 1974. Of course, to obtain this immunity, the polluter would have to file an application for permit, and that application must still be pending.

I am deeply concerned what effect this provision will have on pending law suits and other administrative actions which EPA has initiated over the past 2 years. In particular, I am concerned about the effect of this provision on the Reserve Mining case. The gentleman knows that I have corresponded with him on this issue in the last few days in the full belief that the gentleman and other members of the conference never intended to halt these cases until the end of 1974. I would, therefore, appreciate it if the gentleman would relieve my mind and those of many citizens of this Nation and the Great Lakes by assuring me that it is the intention of the House conferees that the immunity granted under section 402(k) is applicable solely to dischargers who are not on the date of enactment of this bill being prosecuted by the Government, either civilly, criminally, or administratively, under this law or under the Refuse Act. I understand this to be the case because of the language of section 4(a) of the bill entitled "Savings Provision," and because the bill, in fact, does not repeal the Refuse Act of 1899.

Does the gentleman concur with my statement?

Mr. WRIGHT. Will the gentleman yield?

Mr. DINGELL. I yield to my good friend from Texas (Mr. WRIGHT.)

Mr. WRIGHT. Mr. Speaker, section 4(a) of the conference report is an identical provision to that which appeared in the House bill.

Section 402(k) of the conference report is similar although not identical, to section 402(1) of the House bill.

No question has ever been raised up to this point as to the relationship of these two sections. The gentleman's question is the first indication that anyone has ever considered that there was an ambiguity in the two provisions.

Section 4 provides and I quote the relevant words pertaining to the Refuse Act:

> No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity . . . shall abate by reason of the taking effect of the amendment made by section 2 of this Act.

Without any question it was the intent of the conferees that this provision include enforcement actions brought under the Refuse Act, the Federal Water Pollution Control Act, and any other acts of Congress.

I hope and trust that nothing said on this floor or elsewhere would lead anyone to believe that section 4 is anything but totally clear as to its meaning and intent.

Mr. DINGELL. I thank my friend from Texas.

Mr. Speaker, the House conferees have produced in many respects a strong and, if properly administered, effective bill. I am glad that it incorporates much of the clean water package of amendments which Congressman REUSS, other Members, and I sponsored last March on the floor of the House.

I refer particularly to the no-discharge goal of 1985; the acceptance of the Senate position that the best available regulation not await a new congressional act to trigger it after a 2-year study; the increase in Federal control over individual permits to be issued by the States; the acceptance of our worker protection and sewage-from-vessels amendments of last March and the elimination of any amendment restricting the Fish and Wildlife Coordination Act. Also, the conferees' bill will, for the first time, provide a realistic funding program aimed at cleaning up our waters at a faster pace than that recommended by the administration.

Several of the provisions of the conference report deserve special mention in aid of explaining the intent of Congress with regard to the administration and enforcement of the revised Federal Water Pollution Control Act. Also, there are several provisions which give me special concern.

First, the bill requires that the Environmental Protection Agency and the States, in administering this law, issuing regulations, issuing guidelines, conducting research and development, developing standards, effluent limitations and plans, making grants, et cetera, shall provide for public participation in this process.

This is particularly important in those sections of the bill providing for the issuance of guidelines. EPA cannot, as it has done in the past, promulgate any guideline under this new law without first obtaining public comment on it before it is finalized.

In short, the bill requires that its provisions be administered and enforced in a fishbowl-like atmosphere. This is excellent.

Second, both the Senate and House bills provided for citizen suits. The House bill—H.R. 11896—severely restricted the citizen suit provision in its definition of the term "citizen." This is noted on page 134 of the House committee's report of March 11, 1972 (H. Rept. 92–911) as follows:

> Subsection (g) defines the term "citizen" to mean (1) a citizen of the geographic area having a direct interest which is or may be affected and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.
>
> The Committee's definition of the term "citizen" is based upon the "private attorney general" doctrine as developed in the cases of Scenic Hudson Preservation Conference v. Federal Power Commission, 354 F. 2d 608 (2 Cir. 1965), South Hill Neighborhood Association v. Romney, 421 F. 2d 454, 1969. The Committee believes this provides an open door for those who have legitimate interests in the courts, and encourages more meaningful participation in the administrative processes.

But the conferees, quite properly, abandoned this restrictive language in favor of language defining a citizen as "a person or persons having an interest which is or may be adversely affected."

This language is based on section 10 of the Administrative Procedure Act, 5 U.S.C. 702, and the interpretation given to that section by the Supreme Court in *Sierra Club* v. *Morton*, 70–34, 3 ERC 2039. The case was decided in April 1972, 3 weeks after H.R. 11896 passed the House in March 1972—see conference report, page 146, House Report 92–1465, September 28, 1972.

In Sierra Club, the Supreme Court held that under the APA "the party seeking review" must himself be "among the injured" by the action or inaction complained of. Most importantly, the Court held that noneconomic injury to an environmental interest is sufficient to meet the APA test, stating specifically that—

> The interest alleged to have been injured may reflect aesthetic, conservational, and recreational as well as economic values." The Court emphasized that "aesthetic and environmental well-being, are important ingredients of the quality of life in our country, and the fact that particular environmental interests are shared by the many rather than the few does not make them less deserving of legal protection through the judicial process.

The conferees followed the Court's opinion. A citizen suit may be brought under the conference agreement by those persons or groups which are among those whose environmental—that is, esthetic, conservational, including fish and wildlife, historic and natural preservation, recreational or economic—interest is or may be injured by a violation of the act or a failure to perform a duty under the act which is the basis of the suit.

Third, the conference bill defines the term "navigable waters" broadly for water quality purposes. It means all "the waters of the United States" in a geographical sense. It does not mean "navigable waters of the United States" in the technical sense as we sometimes see in some laws.

The new and broader definition is in line with more recent judicial opinions which have substantially expanded that limited view of navigability—derived from the Daniel Ball case (77 U.S. 557, 563)—to include waterways which would be "susceptible of being used * * * with reasonable improvement," as well as those waterways which include sections presently obstructed by falls, rapids, sand bars, currents, floating debris, et cetera *United States* v. *Utah*, 283 U.S. 64 (1931); *United States* v. *Appalachian Electric Power Co.*, 331 U.S. 377, 407–410, 416 (1940); *Wisconsin Public Service Corp.* v. *Federal Power Commission*, 147 F.2d 743 (CA 7, 1945); *cert. den.* 325 U.S. 880; *Wisconsin* v. *Federal Power Commission*, 214 F.2d 334 (CA 7, 1954) *cert. den.* 348 U.S. 883 (1954); *Namekagon Hydro Co.* v. *Federal Power Commission*, 216 F.2d 509 (CA 7, 1954); *Puente de Reynosa, S.A.* v. *City of McAllen*, 357 F.2d 43, 50–51 (CA 5, 1966); *Rochester Gas and Electric Corp.* v. *Federal Power Commission*, 344 F.2d 594 (CA 2, 1965); *The Montello*, 87 U.S. (20 Wall.) 430, 441–42 (1874); *Economy Light & Power Co.* v. *United States*, 256 U.S. 113 (1921).

The U.S. Constitution contains no mention of navigable waters. The authority of Congress over navigable waters is based on the Constitution's grant to Congress of "Power * * * To regulate commerce with Foreign Nations and among the several States * * *" (art. I, sec. 8, clause 3). *Gibbons* v. *Ogden*, 22 U.S. (9 Wheat.) 1 (1824). Although most interstate commerce 150 years ago was accomplished on waterways, there is no requirement in the Constitution that the waterway must cross a State boundary in order to be within the interstate commerce power of the Federal Government. Rather, it is enough that the waterway serves as a link in the chain of commerce among the States as it flows in the various channels of transportation—highways, railroads, air traffic, radio and postal communication, waterways, et cetera. The "gist of the Federal test" is the waterway's use "as a highway," not whether it is "part of a navigable interstate or international commercial highway." *Utah* v. *United States*, 403 U.S. 9, 11 (1971); *U.S.* v. *Underwood*, 4 ERC 1305, 1309 (D.C., Md., Fla., Tampa Div., June 8, 1972).

Thus, this new definition clearly encompasses all water bodies, including main streams and their tributaries, for water quality purposes. No longer are the old, narrow definitions of navigability, as determined by the Corps of Engineers, going to govern matters covered by this bill. Indeed, the conference report states on page 144:

> The conferees fully intend that the term navigable waters be given the broadest possible constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes.

Fourth, section 304(h) of the conference bill directs EPA to publish guidelines in two instances. The second of these relates to guidelines under section 402 relative to a State program.

As I noted earlier, before these guidelines are effective, EPA must provide public comment on them.

The bill provides that the guidelines shall include requirements for "funding, personnel qualifications, and manpower requirements." Also, it requires that State boards or other bodies that approve permit applications shall not have as members "any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for permits."

The New York Times, in an article on December 19, 1971, by Gladwin Hill, showed that there are "potential conflicts of interests" on State air and water pollution control boards in 32 States arising from the membership of executives of polluting corporations, as well as representatives of such major polluters as agriculture and local government.

The New York Times article quotes a Michigan State Representative as stating:

> While the individuals can be of a very high caliber, they basically represent polluters on the board. They represent a constituency and the constituency includes the people or organizations the commission is set up to regulate.

The conference bill is aimed at this very problem. It is intended to wipe out all industry representation on any water pollution control board or similar body that has anything to do with issuing, denying, or conditioning permits under the authority of section 402 of the bill. It is a condition precedent to any State obtaining the power under section 402 to issue permits. Even one such representative shall not be allowed, because of the potential that the board will consider permits of which he has an income interest.

Fifth, section 311(a)(2) of the bill defines the term "discharge" of oil and hazardous substances broadly. The language is quite definite. It is not vague or ambiguous. The conference report, however, seeks to qualify this definition as follows:

> Notwithstanding the broad definition of "discharge" in subsection (a)(2) the provisions of this section are not intended to apply to the discharge of oil from any onshore or offshore facility, which discharge is not in harmful quantities and is pursuant to, and not in violation of, a permit issued to such facility under section 402 of this Act.

But the definition clearly does apply to any onshore or offshore facility from which oil is discharged, either continuously or intermittently. It covers, for example, the discharge of oil from any refiner, manufacturer or other processor whether or not such refiner, manufacturer or processor obtains a permit under section 402 of the bill. So long as the discharge is in harmful quantities, it is unlawful under the plain words of this section.

This section is not aimed at just the sudden and unintended releases of oil or hazardous substances. There is no overlapping with section 402. Both sections are quite compatible. Presumably, EPA will not issue any permit under section 402 that would allow the discharge of oil or hazardous substances in "harmful quantities." If there is such a discharge, then the polluter is subject to the provisions of section 311 of the bill.

I am pleased to note that section 311(b)(6) of the conference bill continues to require that the Coast Guard assess civil penalties for violations of section 311(b)(3). This is entirely consistent with the recent findings and recommendations of the House Committee on Government Operations in its report 92–1401 of September 18, 1972, entitled "Protecting America's Estuaries: Puget Sound and the Straits of Georgia and Juan de Fuca." That committee said on page 31:

> * * * this committee requested the Comptroller General of the United States to examine the Coast Guard's interpretation. On August 14, 1972, Deputy Comptroller General R. F. Keller responded with a detailed opinion (B-146333) reviewing the contentions of the Coast Guard in light of the terms and legislative history of Section 11(b)(5). He also noted that other agencies such as the Interior Department and Labor Department which administer other statutes requiring that civil penalties "shall" be assessed for specified violations do, indeed, assess penalties in each case of violation found. The Deputy Comptroller General ruled as follows:
>
> "* * * in our view the word 'shall' as used in section 11(b)(5) of the FWPCA would, as a technical legal matter, have to be construed as being mandatory in nature. In other words, we believe that the Coast Guard (technically the Secretary of Transportation) is required to assess a penalty in each case in which it determines that oil has been knowingly discharged in violation of section 11(b)(2) of FWPCA, even though it may have already determined that only a nominal penalty will be assessed. This is true even in those cases where the States involved have, in the Coast Guard's opinion, already assessed an adequate penalty.
>
> "Moreover, it is our view that the clear impact of the term 'penalty' requires that the amount assessed generally be greater than zero, even though the Coast Guard may then decide on a case by case basis to suspend collection thereof. However, we must further point out that the Coast Guard has considerable discretion in determining whether it has in a given case sufficient evidence to establish, in a hearing if necessary, the knowing discharge of oil in violation of the statute."

* * * * *

> The Coast Guard should (a) vigorously enforce the Refuse Act of 1899 and the civil penalty provisions of the Water Quality Improvement Act of 1970 against all persons who unlawfully discharge oil into the Nation's waterways, and (b) utilize against unlawful oil dischargers other remedies such as suits under the Federal common law of public nuisance, or for reimbursement of clean up costs, or for damages.

The conferees should be applauded for insisting on strict enforcement of the law so as to prevent oil spills in "harmful quantities," not just to remove the oil after it is spilled.

The Coast Guard, too, should be commended because, on September 22, 1972, the Commandant issued an instruction, 5922.11, which carries out the recommendation of the House Committee on Government Operations. Incidentally, that recommendation is based on investigation by its Subcommittee on Conservation and Natural Resources. Congressman REUSS is chairman and Congressman VANDER JAGT is the ranking minority member.

The Commandant's instructions and attached guidance are as follows:

U.S. COAST GUARD,
Washington, D.C., Sept. 22, 1972.

COMMANDANT INSTRUCTION 5922.11

Subj.: Pollution Law Enforcement.

1. *Purpose.* This instruction promulgates guidance for the assessment of civil penalties pursuant to Section 11 (b)(5) of the Federal Water Pollution Control Act (FWPCA), as amended (33 U.S.C. 1161).

2. *Discussion.*

a. It is Coast Guard policy that every reported or discovered discharge of oil be investigated and that every knowing discharge in violation of Section 11 (b)(5) result in the assessment of a civil penalty.

b. In cases with extenuating circumstances, mitigation may be considered upon review and a compromise amount agreed upon. In those cases, the assessed penalty will become a matter of record as well as the compromise action taken.

c. In determining the amount of a penalty, only the factors set forth in the Act shall be considered. In this way, it is anticipated that the general level of penalties will be raised to a more meaningful level.

3. *Action.*

a. Enclosure (1) shall be used as the guideline for the assessment of civil penalties pursuant to Section 11 (b)(5), FWPCA, as amended.

b. Information contained herein is intended to be used in conjunction with the

National Contingency Plan as implemented by COMDTINST 3020.3 series.

W. M. BENKERT,
Chief, Office of Marine Environment and Systems.

Encl.: (1) Coast Guard policy for the application of Civil penalties under Section 11 (b) (5), FWPCA.

COAST GUARD POLICY FOR THE APPLICATION OF CIVIL PENALTIES UNDER SECTION 11(b)(5), FWPCA

Consistent with the language of the statute, Coast Guard policy requires the assessment of a civil penalty for each knowing discharge of oil in violation of Section 11(b)(2). A knowing discharge not only includes deliberate intentional or willful acts or omissions that result in the discharge of oil in violation of the Act but also includes those acts or omissions which, although without actual intent to cause the discharge of oil, are the result of negligence and there is reasonable cause to believe that such act or omission would inevitably or probably result in the discharge of oil because of existing circumstances or conditions. A more detailed explanation of "knowing discharge" may be found in Law Bulletin 396.

A maximum penalty of $10,000 is authorized by Section 11(b)(5), FWPCA; however, drafters of the Act envisioned lesser penalties in certain circumstances. Section 11(b)(5) provides that, "In determining the amount of the penalty . . . the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation shall be considered . . ." That is to say that the penalty might be less than $10,000 for a small business, or for a business which would be forced out of operation by such a penalty for a violation of minor gravity. It should be noted however, that these factors are not to be considered as factors in determining whether a discharge should be investigated or whether a penalty should be assessed. The statute requires that a penalty be assessed for each violation of Section 11(b)(2). It is Coast Guard policy to assume that the penalty will be at or near the maximum unless a lesser penalty is clearly justified by one of the factors listed in Section 11(b)(5).

Two factors which are not mentioned and should, therefore, not be considered in setting the amount of a civil penalty are the responsible party's removal effort and a decision by Federal and/or State authorities to bring criminal action for the same discharge.

Liability for a civil penalty under Section 11(b)(5) attaches at the time of discharge. It is entirely unrelated to the subsequent removal responsibility for which the discharger must bear the expense either directly or by reimbursing the Pollution Fund. In no case may a responsible party avoid or reduce a civil penalty by removing the discharged oil.

Federal or State criminal prosecutions for the same discharge do not affect the imposition or amount of a civil penalty. Criminal prosecutions are brought under separate authority such as the Refuse Act of 1899. They are neither intended as substitutes for civil penalties nor do they create a legal bar to subsequent penalties. Civil penalties should therefore be assessed for all violations of Section 11(b)(2) without regard to pending or anticipated criminal action.

A number of factors lend themselves to determining the gravity of a violation, such as the degree of culpability associated with the violation, the prior record of the responsible party, and the amount of the discharge. Substantial intentional discharges should result in severe penalties as should cases of gross negligence and so on. This is not to suggest that other factors may not combine to determine the gravity of a violation. A basic premise however, is that it is more advantageous to assess a severe penalty with subsequent mitigation than to assess a lesser penalty or no penalty at all.

Sixth, section 115 of the bill relates to "in place" removal of pollutants from harbors and navigable waterways. The conference report explains this provision as follows (p. 109):

Section 115 of the conference substitute requires the Administrator to identify the location of in-place pollutants with emphasis on toxic pollutants in harbors and navigable waterways and authorizes the Administrator, acting through the Secretary of the Army, to make contracts for the removal and appropriate disposal of such materials which are in critical port and harbor areas. There is an authorization of $15,000,000 to carry out this section.

This provision, of course, does not affect or preclude actions now underway or planned, such as those planned in the Puget Sound area of Washington in the case of several paper mills, to require that polluters remove bottom sludge deposits, whether toxic or not, at their expense. But there is a need to remove from some harbors and waterways, such as the Great Lakes, toxic pollutants in place. Such removal, however, must insure that disposal of the pollutants will not result in other environmental degradation. In carrying out this program, EPA and the corps will need to comply with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, regarding "alternatives" and make their studies and findings available to the public.

Seventh, it should be emphasized, as the conferees have on page 110 of their report, that section 202(a) of the bill does not give EPA discretion to provide less than the full 75 percent Federal share for waste treatment works that are "approved by the Administrator." If funds are not adequate for this purpose, then EPA has an obligation to tell Congress and request sufficient funds for this purpose.

Eighth, the bill, in section 301, establishes a two-phase program for application and enforcement of effluent limitations. The first phase requires achievement by July 1, 1977, of that level of effluent reduction identified as "best practicable control technology." It should be emphasized that the term "best practicable" does not mean a reliance on secondary treatment. The second phase provides a higher degree of effluent reduction to be achieved by 1983. The distinction between "best practicable" and "best available" is intended to reflect the need to press toward increasingly higher levels of control.

The conference report emphasizes on page 121 a very important point. The report states:

The conferees intend that the Administrator or the State, as the case may be, will make the determination of the economic impact of an effluent limitation on the basis of classes and categories of point sources, as distinguished from a plant by plant determination.

Thus, a plant-by-plant determination of the economic impact of an effluent limitation is neither expected, nor desired, and, in fact, it should be avoided.

The report also states on page 171:

* * * after July 1, 1977, the owner or operator of a plant may seek relief from the requirement to achieve effluent limitations based on best available technology economically achievable. The burden will be on him to show that modified requirements will represent the maximum use of technology within his economic capability and will result in reasonable further progress toward the elimination of the discharge of pollutants. If he makes this showing, the Administrator may modify the requirements applicable to him.

This provision could be troublesome, if EPA does not administer it properly. This is, of course, an area where the public participation requirement of section 101(e) of the bill will be most important. In order to avoid any possibility of a weakening of the after 1977 requirement, EPA must establish procedures for the public to participate in modified effluent limitations such as may result from such "relief" requests. The applicant's showing must be available to the public for comment, as well as EPA's proposed determination.

In making this determination, EPA should assure itself that, even if such "relief" is granted, it will still result in "further progress toward elimination of the discharge of pollutants" from point sources than has resulted from the pre-1977 requirements.

Ninth, the conference report, in regard to section 307 of the bill, states on page 130:

Under the conference substitute individual industrial users of municipal waste treatment plants will not be required to obtain a permit under section 402. However, the conferees agree, in section 402(b)(8), that each municipal waste treatment plant permit must identify any industrial users and the quality and quantity of effluents introduced by them. The Conference substitute provides that violation of pretreatment standards is enforceable directly against the industrial user by the Administrator. The conferees intend that the agency which issues the permit for a publicly owned treatment works shall receive notice of changes in the quality and quantity of the effluent to be introduced into such treatment works by any industrial user and have an opportunity to examine the impact on the discharge from such works resulting from such changes for the purpose of determining if there may be a violation of the permit. The conferees intend that the monitoring requirements of section 308 shall apply to industrial users introducing effluents to a publicly owned treatment works.

A review of sections 307 and 402 of the bill, as well as the definitions in section 502, does not indicate any specific language that would preclude EPA from requiring "industrial users of municipal waste treatment plants" to "obtain a permit under section 402," as the conferees contend above. Absent such language, such a permit would be required.

It is quite clear that section 502(12) of the bill, in defining the term "discharge of a pollutant," does not in any way contemplate that the discharge be directly from the point source to the waterway. The situation is analogous to the court's holding in several cases, including *United States* v. *Esso Standard Oil Company of Puerto Rico*, 375 F.2d 621 (CA 3, 1967), where a discharge from a

shore facility flowed "indirectly," that is by force of gravity over land, to a waterway.

Tenth, the bill does not repeal the Refuse Act of 1899. It still remains available to prevent the discharge of polluting wastes. In addition, section 511(a) of the bill specifically preserves the authority of the Secretary of the Army under the Refuse Act.

Mr. Speaker, there are two other provisions that I want to mention.

The first relates to section 511(c) of the bill which reads as follows:

(c)(1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 201 of this Act, and the issuance of a permit under section 402 of this Act for the discharge of any pollutant by a new source as defined in section 306 of this Act, no action of the Administrator taken pursuant to this Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852); and

(2) nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this Act or the adequacy of any certification under section 401 of this Act; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this Act.

The key words are in paragraph (1) of this section. They are: "A major Federal action significantly affecting the quality of the human environment." These same words are found in section 102(2)(C) of NEPA which relates to the preparation and publication of environmental impact statements. Thus, under this provision, such statements will be required in the case of an application for a permit under section 402 for discharge of pollutants by a new source and in the case of publicly owned treatment works financed under this bill.

The other provisions of NEPA are, however, not affected by this language in paragraph (1) of section 511(c).

Section 511(c)(2) seeks to overcome that part of the Calvert Cliffs decision requiring AEC or any other licensing or permitting agency to independently review water quality matters. But it does not affect the obligations of those agencies to consider alternatives and other environmental matters, such as esthetics, fish and wildlife, and so forth.

I am heartened to learn that the Administrator of the Environment Protection Agency shares my view that the National 1969 Environmental Policy Act does not "retard" progress, but insures that progress be identified as the protection of the Nation's heritage in the broadest sense. Mr. Ruckelshaus made this statement in a letter to Congressman ECKHARDT and myself, dated October 3, 1972. He said:

The National Environmental Policy Act provides an opportunity for Federal agencies to review and assess proposed Federal actions which have an impact on the environment. The Act clearly is not intended to retard progress but rather to insure that progress be identified as the protection of the Nation's heritage in the broadest sense.

Mr. ECKHARDT. Mr. Speaker, there is a section of this conference report that distresses me greatly. Specifically, I refer to section 205(a).

This section concerns the allocation of sewage treatment construction grants from the Federal Government to the States. Under present law and the Senate version of the bill the allocation of the grant money would have been on the basis of population. Under the House version the allocation is made on the basis of "need," I believe that it is unfortunate that the House prevailed in this regard.

The needs formula for fiscal years 1973 and 1974 is based on a ratio derived from the data in table III of House Public Works Committee Print No. 92–50. The data in this table, which is information supplied by the States, gives an estimate of the construction costs of sewage treatment facilities for the period fiscal year 1972–74.

What this does, Mr. Speaker, is to reward those States which have done the least to curb water pollution and therefore have the greatest need. States which have already built a substantial number of primary and secondary treatment plants are, in a sense, penalized for their efforts. Also, those States which were most fiscally conservative in estimating their future needs now find their fiscal conservatism working against them. When these estimates of construction costs were submitted, the States had no idea that these figures would eventually serve as the basis of the allocation of Federal grants. In other words, the more a State has already done for itself and the more a State tried to be responsible in its estimate of future need, the less it is allocated under this conference report.

Let us look at the actual effect of section 205(a). The following table shows the percentage allocation of Federal grant money under an equitable population formula and under the so-called needs formula:

TABLE I.—ALLOCATION FORMULAS

State	Present population formula, percent of total	Needs formula, percent of total
Alabama	1.6931	0.3610
Alaska	.1839	.2253
Arizona	.8901	.1346
Arkansas	.9790	.3538
California	9.4341	9.8218
Colorado	1.0903	.3167
Connecticut	1.4669	1.6817
Delaware	.3025	.6568
District of Columbia	.3948	.7117
Florida	3.2489	3.6280
Georgia	2.2209	.9735
Hawaii	.4101	.3304
Idaho	.3983	.2178
Illinois	5.2736	6.2515
Indiana	2.4944	3.3676
Iowa	1.3813	1.1562
Kansas	1.2190	.3744
Kentucky	1.5802	.6602
Louisiana	1.7797	.9432
Maine	.5282	.9680
Maryland	1.8915	4.2600
Massachusetts	2.7218	3.7592
Michigan	4.2235	7.9849
Minnesota	1.8418	2.0328
Mississippi	1.1262	.3936
Missouri	2.2541	1.6563
Montana	.3853	.1662
Nebraska	.7503	.3710
Nevada	.2725	.2878
New Hampshire	.3997	.8312
New Jersey	3.4170	7.7073
New Mexico	.5421	.2109
New York	8.6032	11.0625
North Carolina	2.4561	.9233
North Dakota	.3532	.0467
Ohio	5.0628	5.7762
Oklahoma	1.2646	.4610
Oregon	1.0356	.8498
Pennsylvania	5.6011	5.4327
Rhode Island	.4945	.4891
South Carolina	1.2906	.6458
South Dakota	.3744	.0948
Tennessee	1.3070	1.1610
Texas	5.3267	2.7706
Utah	.5595	.1408
Vermont	.2657	.2219
Virginia	2.2437	2.9156
Washington	1.6514	.8910
West Virginia	.8907	.5001
Wisconsin	2.1300	1.7422
Wyoming	.2112	.0268
Guam	.1237	.0873
Puerto Rico	1.3489	.8848
Virgin Islands	.1124	.0893

Notice that my home State, Texas, has its share reduced below that which it would have received under a population formula, from 5.3267 percent of the total to 2.7706 percent of the total. On the other hand, New Jersey, for instance, has its share increased from 3.4170 percent of the total to 7.7073 percent. The following table shows the net effect of the changeover from the presently used population formula to the needs formula as contained in this conference report before us:

TABLE II.—*Difference between population formula and needs formula*

[In percent]

	Plus or minus
Alabama	−1.3321
Alaska	+.0414
Arizona	−.7555
Arkansas	−.6252
California	+.3877
Colorado	−.7736
Connecticut	+.2143
Delaware	+.3543
Dist. Columbia	+.3169
Florida	+.3791
Georgia	−1.2474
Hawaii	−.0797
Idaho	−.1805
Illinois	+.9779
Indiana	+.8732
Iowa	−.2251
Kansas	−.7365
Kentucky	−.9200
Louisiana	−.8365
Maine	+.4398
Maryland	+2.3685
Massachusetts	+1.0374
Michigan	+3.7614
Minnesota	+.1910
Mississippi	−.7326
Missouri	−.5978
Montana	−.2191
Nebraska	−.3793
Nevada	+.0153
New Hampshire	+.4315
New Jersey	+4.2903
New Mexico	−.3312
New York	+2.4593
North Carolina	−1.5328
North Dakota	−.3065
Ohio	+.7134
Oklahoma	−.8036
Oregon	−.1858
Pennsylvania	−.1684

TABLE II.—*Difference between population formula and needs formula*—Continued

[In percent]

	Plus or minus
Rhode Island	−.0054
South Carolina	−.6448
South Dakota	−.2796
Tennessee	−.1460
Texas	−2.5561
Utah	−.4187
Vermont	−.0438
Virginia	+.6719
Washington	−.7604
West Virginia	−.3906
Wisconsin	−.3878
Wyoming	−.1844
Guam	−.0364
Puerto Rico	−.4641
Virgin Islands	−.0231

Fortunately there is a provision in the bill to revise the cost estimates for fiscal year 1975 and beyond. I wanted to point out to the House the extremely inequitable situation that we will be condoning for the next 2 fiscal years if we accept this conference report today.

The following telegram from Gov. Preston Smith of Texas indicates his quite justified displeasure in the change of formula:

TELEGRAM

SEPTEMBER 30, 1972.

Representative BOB ECKHARDT,
Washington, D.C.:

We are concerned that the passage of the water pollution control amendments will result in an inequitable distribution of Federal funds for municipal sewer construction grants in Texas. We do not oppose the bill itself, but do strongly oppose the formula for fund distribution which replaces the previous population formula. This formula is inconsistent with provisions of other Federal legislation which provides incentives for those States which help themselves.

Texas has required secondary wastewater treatment since 1932.

We are now moving to advanced treatment and development of regional systems. The disproportionate and highly inequitable allocation of funds to Texas will inhibit our progress toward improved water pollution control and abatement.

The proposed amendments will reduce the allocation to Texas from 958.8 million dollars to 498.7 million dollars over a 3-year period. We urge you to protect these desperately needed funds.

PRESTON SMITH,
Governor of Texas.

Since the increase in the amount of money available and the increased percentage of Federal matching—from about one-third to three-quarters—increases the dollar figure for Federal support to Texas in this field, I shall be constrained to support this bill. But I shall work next session to make more equitable the formula which will control the distribution of Federal funds in subsequent fiscal years.

Mr. WRIGHT. Mr. Speaker, I rise in support of the report of the conference committee. In my years in the House of Representatives I have never been associated with a conference committee on which the members on both sides, and in both bodies, have worked harder. The result of this labor is a water pollution bill that embodies the best features of both the House and Senate versions.

SECTION 306 (NATIONAL STANDARDS OF PERFORMANCE)

I invite your attention to section 306 as a case in point. Both the House and the Senate originally addressed themselves to the requirement that there be national performance standards to control the discharge of pollutants from new plants and factories.

The conference version directs the Administrator of EPA to set standards for effluent reduction based on—and this language is from the bill itself—"the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants."

The term new source means any stationary facility constructed after publication of the proposed regulations. The bill itself lists 27 source categories, cutting right across the spectrum of industries and processing installations that are responsible for industrial pollution as we today see it and understand it. Even within a source category, for example, the chemical industry, different performance standards can be imposed for different processes and products. For some categories of sources the number of subclasses might be extensive.

At the same time, the managers have tried to be realistic. The Administrator is directed to take into account the costs of achieving a given standard of performance, including the cost of equipment compared with the effluent reduction to be achieved, possible impacts on other elements of the environment, and the energy needed for the control technology.

It is important that it be clearly understood that even though a standard of performance may permit no discharge of pollutants, such a standard is to be imposed only where it is "practicable." The conference report utilizes the term "practicable" in section 301(b)(1)(A) in the requirements for effluent limitations which must be achieved by July 1, 1977. There are set out in section 304(b)(1)(B), which relates to section 301(b)(1)(A), a number of factors relating to the assessment of "best practicable control technology currently available." This includes consideration of the total cost of application of technology in relation to the effluent reduction to be achieved from such application, nonwater quality environmental impact, and energy requirements. These same factors define the term "practicable" in section 306 except the term "total cost" includes internal and external costs in 301. In the context of section 306 it includes only the internal costs.

It is understood by the managers, however, that in the setting of the standards of performance permitting no discharge of pollutants, the Administrator would have to show that the water quality benefits to be achieved from no discharge would be commensurate with the cost of such a no discharge standard.

The managers expect the Administrator to be thorough in taking into consideration these costs and to meet the test of practicability before any standard of performance for new sources is promulgated with the requirement for no discharge.

Once a facility has complied by adopting the best available demonstrated control technology it could not be subjected to a more stringent standard for 10 years or the 5-year depreciation period authorized for pollution control investments. Plant modifications would not be classified as new sources, but modifications would be regulated through the permit section and other sections of the bill. Both the House and Senate versions originally contained language classifying modifications as new sources, but the conferees considered this provision superfluous. In no way should this be construed as an escape hatch for industry, for it is not that.

Another important provision in section 306 enables the States to develop procedures to enforce standards of performance for new sources and to take over this function upon approval by the Administrator. This is fully consistent with the House position that the States must be entrusted with responsibilities that will enable the 1972 amendments to stand as a partnership venture in combatting water pollution.

Another significant feature of the bill is the permit section, section 402.

The House conference report appearing on page 134 discusses the relationship of section II of the 1970 amendments to the Federal Water Pollution Control Act—carried forward with certain additional provisions covering hazardous substances into section 311 of the new bill—and the comprehensive regulation covering source point discharges provided under the remaining provisions of titles III and IV. I want to clarify the intent of these provisions.

Section 311 applies only to spills, leaks, and the like discharging oil and hazardous substances. Where a discharge is pursuant to and not in violation of a permit issued to a facility under section 402, it is not subject to section 311.

Mr. Speaker, under existing law we have the much heralded Rivers and Harbors Act of 1899, better known as the Refuse Act. The President by Executive order implemented this act and required the Corps of Engineers to establish a discharge permit program. Even though the Refuse Act has provided a basis for some effective court actions to eliminate or reduce the discharge of pollutants, it is apparent that the overall effectiveness of the program has been much less than desired. I cannot say that the Refuse Act has been a failure, but I can say that there are infirmities in the program itself and infirmities created by the Kalur and Picco decisions which because of the administrative burden in developing environmental impact statements and the reduced ability to enforce the program have minimized the effectiveness of the Refuse Act.

The Committee on Public Works in the House of Representatives and the Committee on Public Works in the other body recognized the infirmities, existing and potential and established a new permit program as reflected in the conference report.

Mr. Speaker, we believe that section 402 of the conference report will result in an effective discharge permit program which will result in the control of our discharges of pollutants from point sources. We believe that the conference agreement provides the proper mix of Federal and State actions.

The managers on the part of the House were successful in maintaining a signifi-

cant State participation and control where appropriate. This two-phase program is described in section 402. The first phase is an interim program which can be utilized before the guidelines for State programs are promulgated.

The Administrator is required to promulgate guidelines establishing the minimum procedures and other elements of a State permit program under section 402. These guidelines should include monitoring, reporting and enforcement provisions, funding, personnel qualifications, and manpower requirements.

After the date of enactment and up until the 90th day after the date of promulgation of the guidelines, the Administrator shall authorize any State, which he determines has a capability of administering a permit program which will meet the objectives of this act, to issue permits for discharges into the navigable waters within the jurisdiction of that State. This interim permit program, which could take effect immediately upon enactment, is most important to the managers because it will allow the continuance of existing State permit programs. This interim program should preclude the debilitation of State permit programs during the period of time it would take the Administrator to develop his guidelines and approve State permit programs as being consistent with the guidelines. The State programs could be expanded and improved during this phase.

The managers believe that the interim program is a most necessary and important provision and the managers expect that the Administrator will be diligent in immediately reviewing all State permit programs and granting this interim authorization in every case possible. The managers except that in every determination the balance will be weighed on the side of granting the authority to the States. It is most important that the State programs which have an increasing momentum be allowed to continue. A haetus would be most fortunate and in the long run would detract from the effectiveness of the permit program.

The interim program is not intended to be approved on a piecemeal basis. The managers understand the language of the conference report to require and they expect the Administrator to authorize the State to handle the total permit program during this interim period and the Administrator is not authorized to delegate bits, pieces, categories, or other parts. He must authorize the State to carry out the full program for all categories of discharges.

I must emphasize that during an interim program, the Administrator would receive copies of all permit applications and he would have the authority to carry out a permit-by-permit veto in those cases where the permit conditions were insufficient to carry out the provisions of this act.

After the Administrator has promulgated the guidelines and requirements for a State permit program, the Governors of the individual States desiring to administer their own permit program may submit to the Administrator a full and complete description of the planned integrated State permit program. If the Administrator determines that a State has the authority to issue permits consistent with the act, he shall approve the submitted program. In that event, the States, under State law, could issue State discharge permits. These would be State, not Federal, actions, and thus, whether for existing or new sources under section 306, such permits would not require environmental impact statements.

If the Administrator, within 90 days of the transmittal date of a proposed permit by the State, objects in writing to the issuance of the permit as being outside the guidelines and requirements of the act, the proposed permit shall not issue. This means that if the State proposes to issue an unlawful permit or one which does not meet the guidelines and regulations of this act, the Administrator may stop the issuance of the permit.

I must give added emphasis to this point. The managers expect the Administrator to use this authority judiciously; it is their intent that the act be administered in such a manner that the abilities of the States to control their own permit programs will be developed and strengthened. They look for and expect State and local interest, initiative, and personnel to provide a much more effective program than that which would result from control in the regional offices of the Environmental Protection Agency.

In addition to the provisions for the Administrator to object to a proposed unlawful permit, section 402 provides that any State, other than the permitting State, whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State and the Administrator. The Administrator after review may then object in writing to the issuance of the permit and the permit shall not be issued.

The managers believe that section 402 will result in an effective permit program. There are effective controls by the Administrator. Unlawful permits or permits which would result in unacceptable effects on the waters of another State can be disapproved by the Administrator. On the other hand, the States will have the necessary State authority to operate an effective permit program.

In the event that the Administrator determines after a public hearing that a State is not administering a program in accordance with the guidelines and requirements of section 304(h)(2), the Administrator is required to notify the State and if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator after notice and publications of his reasons shall withdraw approval of the State program. The managers believe this authority was necessary; however, the managers expect that the Administrator will use his authority to withdraw his approval in a judicious manner and that such withdrawal shall be of the total program and not of bits, pieces, categories, or other parts.

Mr. Speaker, we believe that adherence to the congressional intent as I have stated it will insure the proper Federal-State relationships needed to carry out this act effectively.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the conference report in its entirety. This is sound legislation; it provides the effective tools that are needed to restore and maintain the chemical, physical, and biological integrity of our waters.

As a member of the conference managers group appointed by the House, I can concur in the statement made by our distinguished conference chairman, Bob Jones, that this is better legislation than either body brought into conference.

Mr. Speaker, I must take this opportunity to express my appreciation and admiration of the ranking minority member of the Public Works, my friend from Ohio, BILL HARSHA. I do not remember any Member having worked harder or having a more thorough knowledge of any legislation. He did his homework and he was an effective leader on this complex and important legislation.

I must also compliment the chairman of the committee on conference, BOB JONES of Alabama. His patience and perseverance was instrumental in bringing the conference to a most successful conclusion. I am personally indebted to the chairman for the fair and effective way he chaired the committee on conference.

Section 316 was originally included in the House-passed water pollution control bill because of the belief that the arguments which justified a basic technological approach to water quality control did not apply in the same manner to the discharges of heat. Two basic arguments for the technological standards which do not apply to the same level in the case of heat as they do for other pollutants are national uniformity and ease of enforcement. With regard to national uniformity, a basic technological standard requires that all sources of the discharge of pollutants would be required to meet the same effluent limits. This requirement, along with section 306, would preclude owners and operators of industrial facilities from moving their facilties to a location with less stringent water quality control requirements. Because steam-electric generating plants are the major source of the discharges of heat, this argument has reduced validity. Such plants are intended to supply the power requirements for specific areas which are closely regulated by the Federal Power Commission and they cannot be moved too far from their consumers because of the high cost of transporting base load requirements.

The number of major sources of the discharge of heat is much less than the number of sources of the discharge of other pollutants. Because of this, the problems of enforcement including the identification of violators, the apportioning of load limits for a given body of water, and the determination of the effects of a given source are all less difficult than the problems encountered in the case of the multitude of sources of the various other pollutants.

The managers on the part of the House were firm in their deliberations in con-

ference with the other body and were successful in having section 316(a) of the conference report contain a clear recognition of the dissipative capacity of the receiving waters for the control of waste heat.

Section 316(a) modifies the requirements of both sections 301 and 306 as they pertain to the thermal components of discharges from point sources, and authorizes the imposition of less stringent effluent limitations than would otherwise be imposed. These limitations will apply whenever the owner or operator can satisfy the appropriate certifying or permitting agency that they will assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made. It is intended that the certifying or permitting agency, in applying this test on a case-by-case basis, shall take into account the nature, physical characteristics, and dissipative capacities of the receiving waters.

It was persuasively shown during the hearings on this point that the appropriate type and level of control over thermal discharges varies substantially among different waters and regions of the country. Testimony indicated that these variations derive principally from the dissipative capacities of the receiving waters which varies with the rates of flow and turbulence of a given body or stretch of water, as well as from differing temperature, atmospheric and seasonal conditions, and other factors relating to ambient conditions.

Section 316(a) in effect recognizes the temporary, localized effects a thermal component may have as well as the potential beneficial effects. It encourages the consideration of alternative methods of control including mixing zones, so long as the controls assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife.

It is intended that in making such determinations, the certifying or permitting agency shall employ recognized and accepted measurement techniques. It is further intended that in making such determinations, "balanced" shall be interpreted to mean a reasonable maintenance of aquatic biology and not the demonstration of enhancement thereof. "Indigenous" shall be interpreted to mean growing or living in the body or stretch of water at the time such determination is made. Representing a West Coast Congressional District that has the so-called Japanese current running just off the coast that substantially varies and increases the temperature. At the same time, the temperature of waters off the coast of Maine are substantially colder. With these contrasts, plus the variables between fresh and salt waters, exteriors, et cetera, I hope my colleagues can appreciate and understand my reasoning on this very important matter.

Section 316(b) requires the location, design, construction and capacity of cooling water intake structures of steam-electric generating plants to reflect the best technology available for minimizing any adverse environmental impact. The reference here to "best technology available" is intended to be interpreted to mean the best technology available commercially at an economically practicable cost.

Section 316(c) provides a 10-year period beginning on the date of completion of construction or modification of a point source. During which no additional limitations shall be imposed with respect to the thermal component of a discharge from such source, except that the 10-year period could be reduced to as little as 5 years if an accelerated depreciation schedule is utilized.

Subsection 104(t) provides that the Administrator shall conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. The results of these studies shall be reported by the Administrator no later than 270 days after enactment, and shall be considered by the Administrator in proposing regulations with respect to thermal discharges under section 316 and by the States in proposing thermal water quality standards. These studies will provide needed data and should be very helpful to the Administrator in proposing regulations. The Administrator should consider the results of these studies in promulgating regulations not only under section 316 but also under other sections of the act where thermal discharges may be regulated, including section 301 on effluent limitations, section 303 on water quality standards, and section 306 on new source performance standards.

Mr. Speaker, for the record I wish to make a brief statement concerning section 202 of the proposed amendments. This section provides that the Federal share of construction costs will be 75 percent irrespective of whether or not the State contributes toward the construction cost. I support this provision because local government agencies in the majority of States have been unable for too long a period of time to avail themselves of large grants just because a State has either been unwilling or unable to afford the 25 percent so-called matching grant required pursuant to the provisions of section 8(b) of the existing Federal Water Pollution Control Act. Also, implementing the tough and for the most part generally uniform effluent limitations called for in the new legislation demands out of equity that there be Federal grant parity for all local agencies.

The construction of the language of section 202 may unfortunately, present difficulties. There is the potential for misinterpretation in the case of those few States which currently have active matching grant programs and which additionally are restricted by State law from participating in making grants available unless it is required to maximize the Federal grant share. To my knowledge, only three or four States have such a problem and of these California is the only State having a significant amount of unobligated funds currently available.

The designated water pollution control agency in California is the State Water Resources Control Board and Mr. W. W. Adams, chairman of that board reports that California currently has $184 million of unobligated State grant funds available. It is not the intent of the conference committee that California not spend this $184 million which has already been duly authorized by the voters of California for investment in clean water facilities. It is merely the committee's intent that California have full freedom to decide how it wishes to participate in the remaining 25 percent non-Federal share. It would be a travesty indeed if anyone interpreted the committee's actions as blithely eliminating $184 million of available funds from the overall clean water effort and I wish to make the record very clear on that point.

California has one of the most progressive clean water construction programs presently underway anywhere. Mr. Adams, for instance, reports that after only 2 short years under the matching grant programs that California has issued 261 grant contracts to local agencies. These contracts provide State grant aid for wastewater treatment projects whose total construction costs amount to $528 million. I state categorically that it is not the intent of the committee to in any way discourage progressive State construction grant programs and no one should interpret the new Federal share language of section 202 in this light. Quite to the contrary, the committee applauds and wishes to encourage strong State construction assistance programs.

Mr. Speaker, in conclusion, I urge that this conference report receive a unanimous vote. Our country needs effective water pollution control legislation. We can provide it today by our actions.

Mr. JOHNSON of California. Mr. Speaker, I have been privileged to serve as one of the House conferees on the water pollution control bill. Under the able leadership of the gentleman from Alabama we have hammered out a bill that represents a victory for all who want to clean up the Nation's rivers, streams, and lakes, and who look to Congress for environmental leadership.

I call your attention to a major provision in this bill—the funding provision—in which I know Members of the House have particular interest. We are aware of the dedication and the determination of State and local officials to deal with their water pollution problems, but we know, too, the utter frustration they face in raising the necessary funds. There have been estimates all over the ballpark as to what will be required to once again make our rivers and lakes places we can enjoy and be proud of. The House and the conference committee have looked very carefully at the matter of funding. You may recall that the bill that passed this body last March called for authorizing a little more than $24.6 billion, the Senate bill authorized $20 billion, and the administration requested $6 billion. The conferees have agreed on essentially the same figure as in the House bill, $24.6 billion for the period through fiscal 1975. A total of $18 billion of this sum is for construction grants, and breaks down not to exceed $5 billion for fiscal 1973, $6 billion for fiscal 1974, and $7 billion for fiscal 1975.

Naturally, the large difference in what

the administration asked, and what the conference bill provides, raises the question of why the substantial discrepancy?

There is only one answer to that and it is that if we set out to do this job there is no way we can accomplish it without paying the price. If we want clean water, we have to pay for clean water. If we want the States and cities to move aggressively ahead in building waste treatment plants they must have Federal aid, and they must have confidence that Washington will continue to live up to its commitments.

This need for a dependable, continuing Federal commitment is the basis for the contract obligation authority which has been retained in the conference bill. Construction projects can be initiated as soon as the Administrator approves them, but there will be no major spending impact until fiscal 1975.

The conference bill provides for the Federal Government to pay 75 percent of the costs of a community's waste treatment plant, leaving it up to the States and local communities to come up with the remaining 25 percent. There are no restrictions on how they can raise their 25 percent.

The bill reported by the conference imposes a requirement that publicly owned treatment works provide secondary treatment as defined by the EPA Administrator in projects that come into existence by January 1, 1976. This is part of our objective of eliminating pollutants from point sources and of including publicly owned systems within that objective. In defining the term "secondary treatment" under the provisions of subsection 304(b)(1)(B) and subsection 304(d)(1), the Administrator has the discretion to find that the "secondary treatment" requirement is met by alternative means. For example, in the case of deep ocean water discharges through ocean outfalls, the Administrator could determine that "secondary treatment" requirements are met in that situation where the discharges have first, received primary treatment, second, complied with regulations governing the discharge of heavy metals and other toxic substances and, third, where the publicly owned agency has demonstrated that such ocean discharges are not inconsistent with the purposes of the act and do not harm or endanger the diversity, productivity and stability of the marine ecosystem.

It would be wasteful of public funds to define "secondary treatment" in such a fashion as to require expensive facilities to achieve a degree of treatment which, under the practical circumstances existing, would be unnecessary.

The discretion conferred upon the Administrator should be exercised by him only after he has determined that whatever processes or actions constitute "secondary treatment" conform with and are consistent with the objectives of the act and that they are technically and economically feasible. Moreover, I believe that any publicly owned system bears the burden of demonstrating to the Administrator that this will be the case.

Mr. Speaker, I would call the attention of the House to one other section of the bill that provides authorization for construction grants, and that is section 3(b) on page 90 of the conference report. Under this section, not to exceed $350 million is authorized for grants under section 8 of the existing Federal Water Pollution Control Act for the fiscal year that ended last June 30.

The Federal share of grants for treatment works construction shall be the same as that authorized by section 202 of the committee report. It is the intent of the conferees that the allocation of the $350 million shall be made in accordance with section 8 of existing law. Except for reallocated funds, there is no provision in section 8 for discretionary allocations. The conferees believe that the needs for construction grants exceed the dollars available for the fiscal year ending June 30, 1972, and it is expected that there will be essentially no fiscal year 1972 funds available for discretionary reallotment.

Mr. Speaker, at this time I would like to call the attention of the House to two typographical errors in section 3, the section to which I refer. The first sentence of both sections (a) and (b) should read:

There is authorized to be appropriated for the fiscal year ending June 30, 1972, *not*, (I repeat, *not*) to exceed, and so forth.

Mr. JOHNSON of California. Mr. Speaker, one of the most difficult problems facing the conferees was the manner of regulating thermal discharge, or discharges of warm water from stationary sources such as steam electric power plants. Under the agreement of the conferees, thermal discharges are treated like other discharges, except that section 316(a) authorizes the imposition of a less stringent limitation whenever it can be demonstrated that such lesser limitation will protect shellfish, fish and wildlife in and on the body of water in which the discharge is to be made. The Administrator—or, if appropriate, the State—shall consider all alternatives for dissipating heat, including once-through cooling and mixing zones, so long as the protection of fish can be assured. This agreement recognizes that heat is different from solid or suspended pollutants because of its temporary and localized nature, and permits consideration of the dissipating capacities of the receiving waters, on a case-by-case basis.

Thermal discharges will be required to meet the best practicable requirement of 1977 and the best available requirement of 1983. New plants will also be subject to the new source provisions of section 306 which provides that the Administrator in publishing standards shall take into consideration the cost of achieving such effluent reduction, and any non-water quality environmental impact and energy requirements. Thus water quality standards will not be prepared in a vacuum, without regard to adverse impact on air—such as by cooling towers—or land—such as by cooling ponds. Nor will costs be ignored, and the national interest in an adequate energy supply is expressly recognized.

The results of the studies of thermal discharges under section 104(t) are to be considered by the Administrator under section 316, and should also be useful in regulating thermal discharges under section 301 (effluent limitations), section 303 (water quality standards) and section 306 (performance standards for new sources).

The conference report provides for a maximum Federal grant of 75 percent of the approved cost of construction of treatment works without a requirement for the individual States to provide any matching fund. The managers recognized that some States have matching grant provisions in their laws or bond issues which are written to require the State to provide the minimum matching grant required to obtain the maximum available Federal grant. The managers recognize that even though there is no matching grant requirement in section 202 of the conference report, the individual States which have taken the initiative to make available matching grant funds as is required in the law as it exists at this moment, should not have their programs nullified or impaired.

It is my understanding that it is the intent of the managers that such programs be continued and that States with unobligated funds should assist in the construction of treatment works until said unobligated funds are exhausted or until the next session of the legislatures of the affected States is completed.

Mr. MILLER of Ohio. Mr. Speaker, my friend and fellow Member from Ohio, the distinguished Ranking minority member of the Public Works Committee who was so effective in the meetings of the managers on this legislation, made a statement I want to quote and emphasize. He stated:

The House of Representatives chose to recognize that water pollution control does not exist in a vacuum isolated from other environmental and economic considerations.

To me this statement clearly sums up the approach taken by the Committee on Public Works in working toward the conference report we have before us today—water pollution does not exist in a vacuum isolated from other environmental and economic considerations. I need only remind you of the critical energy problems facing our country to emphasize the interrelationships between water quality and other environmental and economic problems.

I believe that one of the most important contributions that I and the House managers achieved in our deliberations with the other body is contained in sections 304(b)(1)(B), 304(b)(2)(B), and 306(b)(1)A) where energy requirements are recognized as a factor or basis for the setting of effluent limitations for existing sources under the requirements for July 1, 1977, and July 1, 1983, and for new sources under the requirements of new source performance standards.

When the Administrator identifies the degree of effluent reduction attainable through the application of best practicable control technology currently available as required in section 301(b)(1)(A) and through the application of the best available technology as required in section 301(b)(2)(A), the Administrator must take into account energy requirements as one factor in determin-

ing the measures and practices available to comply with the July 1, 1977, and the July 1, 1983, requirements.

In establishing new source performance standards, the Administrator must take into consideration the cost of achieving such affluent reduction, any nonwater quality environmental impact and energy requirements.

The managers expect the Administrator to give full consideration to energy requirements. This does not mean that we simply expect him to consider the air pollution impact of increased energy requirements for improved water quality control. It means that the managers expect the Administrator to consider the full impact of the energy crisis facing the United States. It must also point out that difference in wording between sections 304(b)(1)(B) and section 304(b)(2)(B) and section 306(b)(1)(A) is not intended to signify a difference in the level of consideration to be given to energy requirements by the Administrator.

Clean fuels are in short supply, we are becoming evermore dependent upon foreign sources of fuels: environmental considerations can affect an already serious situation. Therefore, the Administrator must recognize the requirements and must not let water quality requirements exist in a vacuum. The energy requirements of the various control measures and techniques must be factored into the requirements of sections 301 and 306. This is the clear intent of the managers and I would expect the Subcommittee on Investigations and Oversight of the Committee on Public Works to ascertain that the Administrator carries out this clear statement of intent.

The reasons why I have been concerned about this problem and the reason why I raised this issue in the committee on conference is that our Nation faces severe problems in providing our energy requirements while meeting our environmental needs.

Our Nation in the past 20 years has doubled electrical energy requirements, due mostly to our high standards of living. But the demands on electrical energy is reaching the current available limits. At current projections, electrical power requirements in the United States will increase from 340,000 megawatts in 1970 to 365,000 megawatts in 1980, and 1,260,000 in 1990. We are already facing an electrical energy shortage with the threat of brownouts and blackouts ever present. Yet the targets that we set in this legislation would impose additional demands on the available electricity. Both the additional number of waste treatment plants and industrial treatment plants needed and the amount of electricity to operate these plants employing high levels of pollutant removal would act as a drain on our electrical energy. Without an energy requirement criteria in this bill, the goals we set would be self-defeating, for the more electrical energy one generates, the more pollution one produces. As a Representative from an Appalachian State, I know that our people certainly do not want to see more strip mining in our hills to produce the coal to supply the energy that runs the turbines to generate the current to remove the pollutants from the waters in our neighboring States. This pollution transferral problem is basic to the consideration of this legislation and if energy requirements are not taken into account with respect to the application of technology, we will not have a net environmental gain but we will end up going around in circles.

Mr. ROE. Mr. Speaker, I strongly recommend adoption of the conference report. All of the important elements of both House and Senate versions have been woven into what I consider to be an even stronger bill than those we brought into conference. It is sound, workable, and bears impressive testimony to the determination of the Congress to step up the pace of our national effort against water pollution.

Those of us from States like New Jersey know at first hand the critical nature of this problem. We also understand the complex interrelations that underlie water pollution and which must be addressed in any ameliorative program. We must act on many fronts, simultaneously, and engage the problem wherever it is found. With this in mind, I call your attention to three elements that demonstrate the comprehensive nature of the conference report, and which will greatly help our large metropolitan areas.

First is section 211, which was originally part of the House bill. This section provides that Federal grant money shall be available not only to build treatment works, but also to improve and expand collector systems. We know that some communities build treatment plants that are unnecessarily large because collector systems are so antiquated and rundown that substantial amounts of surface runoff and other clear water is finding its way into the treatment plant. At the same time, financing to improve these collector lines has been difficult to obtain.

This section will help correct this problem. I would point out that the language has been improved in conference to prevent this act from subsidizing the extension of sewerlines into new housing developments or defraying costs that should legitimately be borne by property owners.

A second feature which I consider essential from the standpoint of our large urban areas is the feature found in section 208 on areawide waste treatment management. It is one of the first principles that no community, acting by itself, can clean up any river. Many cities and towns, in fact, feel a sense of futility when they set out to construct needed facilities, only to see nearby communities take a more casual attitude. There are many provisions in this bill aimed at overwhelming inaction and oversight and one of the most important ones is in section 208.

Section 208 requires the Governor of a State to designate the boundary of each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality problems. The Governor is also required to designate a single representative organization, including elected officials from local governments or their designees, with demonstrated talent and expertise capable of developing effective areawide waste treatment management plants for the area.

The conferees intend that the representative organization shall include elected officials from local governments or their designees. But I emphasize that this does not mean that the representative organization shall be made up solely of such elected officials or their designees.

The conferees expect that the development of the management plans will be based upon technical, social, economic, and environmental considerations, and not political considerations.

Section 208(a)(4) provides that if the Governor does not either designate an area and planning agency or specifically make and publish a determination not to make such a designation, the chief elected officials of local governments within an area may by agreement designate the boundaries for such an area and a single representative organization, including elected officials from local governments or their designees, capable of developing an areawide waste treatment plant for such area. My prior remarks with regard to the makeup of the representative organization for planning apply in this case also.

The conferees do not expect the organization, even if designated by the chief elected officials of local governments, to be made up solely of elected officials. The conferees expect that the organization will include trained and capable persons who have the capability of developing the required areawide waste treatment management plan. The conferees expect that the designation of such organizations and areas by elected officials will be a rarity.

The conferees expect that the Governors will designate existing original areas which have demonstrated their capability to develop the needed plans. For example, in some States, there are conservancy districts which have the needed capabilities and which have demonstrated the ability to carry out the necessary planning.

The conference report requires that the State shall act as a planning agency for all portions of that State which are not designated as special areas with a designated organization for planning. The Governor of each State, in connection with the planning agency, at the time the plan developed by the agency is submitted to the Administrator, shall designate one or more waste treatment management agency for each area. It is not required that there be a management agency for all areas of the State.

We are all well aware of the damage that can be done by oil spills and by other accidental or intentional discharges. At the same time, we recognize our dependence upon river and ocean commerce and the fact that we must ship many, many hazardous substances to keep our society vital and growing.

Section 311 of the report establishes very stringent penalties on the discharge of hazardous substances. The managers did this reluctantly because they feel strongly that clear and effective regula-

tions and laws on the control of the methods of shipping hazardous substances is more desirable than the severe penalty approach which the managers adopted and which commences 2 years after the enactment of this act.

The protection of our water resources requires that hazardous substances be closely controlled, and in the absence of subsequent legislation by those communities having control of this matter, the stringent penalty provisions would come into effect. The managers recognize, and I emphasize this, that the strict penalty provision is undesirable and we urge the other committees in the Congress with jurisdiction in this area to initiate hearings and develop necessary legislation to control the shipping of hazardous substances at the earliest possible time.

The shipment of hazardous substances is an absolute necessity for our complex industrial economy; thus, it is incumbent upon the Congress to clearly define the controls and requirements for the safe shipment of these hazardous substances.

Mr. GROVER. Mr. Speaker, the gentleman from New Jersey (Mr. ROE) has made us aware that in the House bill and the conference report the term, "treatment works" includes the collector sewer systems. As he noted, this is a necessary improvement from existing law because the collector systems are most important to the integrity of a treatment works project. In some places, the cost of the collector system exceeds the cost of the actual treatment facilities. Section 202 (b) addresses the problems this cost can create for some areas.

Section 202(b) provides that any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works for which the actual erection, building, or acquisition was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the 75-percent level. Such increased grant shall be paid, first, only if a sewage collection system that is part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed and for use in conjunction with such treatment works, and second, if the cost of such sewage collection system exceeds the cost of the original treatment works and if the State water pollution control agency certifies that effluents from publicly owned treatment works have to be returned to the ground water to maintain such ground waters in a sufficient, adequate, and suitable quality for public use.

I authored this provision and it is directly applicable to projects such as the southwest Suffolk County project in my district—a vast necessary program—extremely burdensome, however, to the taxpaying homeowner without this provision.

I support this conference report on water pollution control legislation and urge bipartisan approval of the agreement we have reached after nearly 5 months of negotiation with the other body.

The issues involved in this legislation are complex almost beyond belief, for the very valid reason that our urbanized, industrialized society makes so many competitive demands upon our limited water resources and no one of those demands can be considered individually, as something unrelated to the totality of our water pollution problem.

Nowhere is this more clearly illustrated, Mr. Speaker, than in the provisions of the bill dealing with the regulation of industries whose effluents are discharged through publicly owned waste treatment plants.

Section 204(b) requires the Administrator, within 180 days after the enactment of this act to issue guidelines for industrial user charges. Under this requirement the promulgation of such guidelines could be as late as April 1973. The managers do not expect such promulgation to take this long. The managers understand that the guidelines are essentially complete and the managers expect the Administrator to promulgate the guidelines shortly after enactment of the Federal Water Pollution Control Act Amendments of 1972.

Section 204(b)(1) of the conference report prohibits the Administrator from making any grants after March 1, 1973, unless he shall have first determined that a system of user charges consistent with the guidelines has been or will be adopted. The managers on the part of the House expect the Administrator after enactment promptly to start approving plans, specifications, and estimates which are otherwise consistent with the existing regulations and guidelines. On the other hand, the managers do not expect a flurry of applications to be approved in order to avoid the requirements for industrial user charges.

The managers recognize that some grant applicants have negotiated many contracts with intended industrial users of proposed treatment works. Much time, effort, planning, and even design expenditures have gone into these proposed plants based upon existing regulations and guidelines. The contractual agreements were signed in good faith and they will lead to improved water quality. To hold the grant applications of these communities until after March 1, 1973, would be an injustice and would slow down the water quality improvement efforts in these areas.

Mr. Speaker, a typical situation of the type I have described is in Niagara Falls, N.Y. This was brought to the attention of the committee by my friend and colleague from New York, Hon. HENRY SMITH. The project in Niagara Falls, is an example of one which could be delayed for months or even years. Their plans would have to be totally revamped, and water quality would suffer if the Administrator does not keep the program moving in the period before the guidelines are issued.

Mr. CLARK. Mr. Speaker, as a member of the House Committee on Public Works, I sponsored an amendment to H.R. 11896 with respect to thermal discharges, such as warm water discharges from the condensers of steam electric powerplants. I offered this amendment, because I was convinced, based on testimony presented during the hearings before our committee, that heat is not as harmful as what most of us view as "pollutants," because it dissipates quickly in most bodies of receiving waters. In some cases heat even has a beneficial effect. My amendment, which was approved unanimously by the House committee, exempted the term "thermal discharges" from the definition of the term "pollutant," added a new subsection 104(t) calling for studies of thermal discharges, and a new section 316 concerning regulation of thermal discharges.

I am disappointed that the conferees did not include all the provisions of my amendment. I am pleased, however, that the conference agreement does include subsection 104(t) substantially the same as approved by the House. It also includes a new section 316, which, with other provisions in the bill, can accomplish the objectives I was seeking.

First, section 316(a) is similar to my proposal in that it recognizes that heat is less harmful than most "pollutants" and that consideration should be given to the dissipative capacities of the receiving waters. Section 316(a) authorizes the Administrator to waive the requirements of sections 301 and 306 and impose a less stringent limitation whenever it can be demonstrated that such lesser limitation will protect a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made.

Second, section 316 must be read with other sections in the bill, including section 301 effluent limitations; section 303, water quality standards; section 304, guidelines; and section 306, new sources. Section 306 states that in establishing standards of performance for new sources, the Administrator shall take into consideration "the cost of achieving such effluent reduction, and any nonwater quality environmental impact and energy requirements." Similar language is contained in section 304 concerning factors to be considered in assessing "best practicable" and "best available" technology.

Third, the conference agreement should help clear up the unbelievable mess which EPA and the Corps of Engineers have created in the discharge permit program. At the present time this program has broken down completely and no permits are being issued. Over 20,000 applications have been filed, but all discharges could be considered in technical violation of the law, because they have no permits. Section 402 transfers the program from the corps to EPA, and provides a mechanism for the States to assume full jurisdiction. Such a program can work only if carried out at the State level, just because of its sheer size. Section 402(k) states that until December 31, 1974, a discharge shall not be in violation of law if a permit has been applied for, and the applicant has furnished all information reasonably required or requested. Hopefully, the program will be in the hands of the States by December 31, 1974, and permits will be issued. But, if not, Congress may have to extend this date.

Mr. Speaker, all of us are sincerely interested in stopping pollution of our Nation's waters. But the Administrator has shown an unfortunate tendency sometimes in the past to require ridiculous expenditures of hundreds of millions of

dollars with no benefit to any persons, or even to the fish. The purpose of the language in sections 304, 306, and 316 is to require the Administrator to utilize better judgment in the future. Where it can be demonstrated that heat will be harmful it should be subjected to appropriate controls. But where it can be demonstrated that heat will not hurt anyone—not even the fish—then unnecessarily strict limitations should not be imposed.

Mr. MAHON. Mr. Speaker, several weeks ago the House passed amendments to the Federal Water Pollution Control Act. While I am strong for water pollution control, I stoutly opposed the measure when it was before the House for reasons which were set forth at the time in the CONGRESSIONAL RECORD.

Since House passage of the amendments, the legislation has been in conference between the House and the Senate, and we are today confronted with the final version of the act which will go to the President for his approval or disapproval.

It seems futile at this stage to vote against the measure, especially in view of my dedication to water pollution control, but I wish to reaffirm the objections which I made when the bill was originally before the House and express my disappointment that direct appropriations were not substituted for back door spending. I wish further to assert that in my judgment the bill carries an unnecessarily high dollar figure. The bill makes available for commitment during the current fiscal year a total of about $11 billion. I do not believe this figure can be defended, but in view of the fact that this is the last opportunity for Members to take action on the pending measure, I am voting for it and taking this opportunity to reaffirm my concern over what I consider to be many ill-advised provisions in the pending conference report.

Mr. KEMP. Mr. Speaker, I believe that history will record that today marked the turning point in our battle to conquer water pollution.

The Federal Water Pollution Control Act Amendments of 1972 which the House has passed will provide new and potent weapons for the restoration and protection of our waters.

The House Committee on Public Works under the leadership of the very able and distinguished chairman, the gentleman from Minnesota (Mr. BLATNIK), is certainly to be commended for their many long months of ceaseless work to perfect this forceful legislation.

Earlier this year I introduced in the House my own version of the Federal Water Pollution Control Act Amendment bringing together certain elements of both the House and Senate bills plus additions of my own concerning the Great Lakes, protection of the subsurface environment and reimbursement.

I am very pleased that the final version of the Federal Water Pollution Control Act Amendments of 1972 contains most of what I had hoped to accomplish through my legislation.

For the first time ground waters have been given the same emphasis as surface waters. S. 2770 is an important step forward in the protection of the underground environment but I still plan to reintroduce my bill, the Subsurface Waste Disposal Control Act which would more comprehensively control the subsurface injection of wastes.

The clean waters bill which I introduced earlier this year included an additional $100 million for the Environmental Protection Agency special crash cleanup program for the Great Lakes. I also presented testimony in favor of this program before the distinguished gentleman from Mississippi's (Mr. WHITTEN) subcommittee of the Committee on Appropriations and the committee developed a plan which would make these funds available and the Great Lakes crash cleanup program a reality.

S. 2770 adds an additional $20 million for the Great Lakes by continuing the authority of the administration of the Environmental Protection Agency to conduct a study of pollution in the Great Lakes.

In 1910, President Theodore Roosevelt asked for the cooperation of Ohio, Pennsylvania, and New York to help a campaign to get pure drinking water from Lake Erie. He foresaw the destruction which would occur if uncontrolled pollution continued:

> You can't get pure water and put your sewage into the Lake. I say this on behalf of your children.

Unfortunately, because his advice was disregarded, we face the massive task of cleaning and restoring Lake Erie. In recognition of the serious conditions which exist in Lake Erie, S. 2770 directs the Secretary of the Army, acting through the Chief of Engineers, to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie.

Five million dollars is authorized to be appropriated for this purpose and is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie. This language will be the vehicle for the $100 million crash program to clean up the Great Lakes, which, as I mentioned above, has already been appropriated and designated for this use by the Appropriations Subcommittee on Agriculture and Environment.

This bill we have passed will help bring about for our children President Teddy Roosevelt's dream of pure water in Lake Erie.

The clean waters bill also takes important action regarding a problem which has been of much concern to me, that is, the prevention of degradation of the environment from the disposal of waste oil.

Reimbursement is of critical importance to the States' pure water programs and I included a total of $3 billion in my water pollution control bill to provide adequate financing for conventional reimbursement. In my State of New York alone, the pending projects—3-year projects; total eligible cost through fiscal year 1974—total $1,790 million.

I am pleased that S. 2770 provides $2.75 billion for reimbursement which, of course, is well above the Senate bill and comes close to the figure I recommended. At this moment, while I am speaking, no figures are available for the State of New York on total reimbursement projections for fiscal year 1973. But I was advised by EPA officials earlier today that for the last 2 months of fiscal year 1972, New York will receive $30,887,300 out of a total national allocation of $350 million.

The authorization of up to $18 billion over a 3-year period for grants for construction of treatment works will give a much needed assist to many hard-pressed areas around the Nation. This includes my county of Erie, N.Y., in their efforts to abate water pollution. We can never have pure streams and lakes until a satisfactory solution is found to the problems of waste disposal.

S. 2770 provides $552,895,000 to the State of New York for new construction of treatment works in fiscal year 1973 and $663,474,000 in fiscal year 1974. The total for New York State for these waste treatment programs which I have just mentioned and for reimbursement—only for fiscal year 1972—is over $1 billion—$1,247,256,300 to be exact.

More than a century ago when the noted French political philosopher, Alexis de Tocqueville, visited our infant United States, he wrote:

> A democratic power is never likely to perish for lack of strength or of its resources, but it may very well fall because of the misdirection of its strength and the abuse of its resources.

I believe the people of our Nation have shown they have the national will to redirect their energies toward saving our environment and away from squandering our priceless natural resources. By passing S. 2770 today, the Congress has provided the States and the people with the means to begin a new era in our search for a quality environment.

Mr. JONES of Alabama. Mr. Speaker, I appreciate the comments made on the floor today by my colleague from Michigan (Mr. DINGELL). The gentleman has obviously put a lot of work into his statement. It reflects hours of study. I must, however, point out for the record that the gentleman was not a manager on the part of the House and the views expressed in his statement are his own and do not necessarily reflect the views of the managers on the part of either House.

The views of the managers on the part of the House have been fully expressed in the statement of managers and today's statements by my fellow managers on the part of the House.

Mr. Speaker, it is the position of the House conferees that any restriction or prohibition of any defined area as a disposal site must be made with circumspection in view of the importance of navigation and waterborne commerce to the economic well-being of the United States. Thus, it is expected that disposal site restrictions or prohibitions shall be limited to narrowly defined areas where it can be clearly demonstrated that the discharge of dredged material at such specified location will have an unacceptable adverse effect on critical areas intended to be protected.

In making a determination to deny a permit under subsection 404(b) the Secretary is required to evaluate the effect of such denial on the economic impact

on navigation and anchorage. This finding will override the discharge criteria or guidelines where there is no economically feasible alternative available to the specified disposal site. Also, the provision for removal of in-place toxic pollutants to section 115 is not limited to Great Lakes Harbors but is intended to apply to all critical port and harbor areas.

It was suggested to the conferees that, if the act's definition of "point source" is strictly and literally construed, it would subject discharges from marine engines on recreational vessels to the requirement for obtaining a permit under this act. Since there are more than 6 million owners of recreational vessels which would be required to obtain permits if this interpretation were adopted, the conferees believe that inclusion of recreational marine engines under the permit program would result in an unreasonable expenditure of administrative effort. It was further recognized that to require each and every boatowner to obtain a permit for his engine would be unreasonable.

We expect the Coast Guard and the Environmental Protection Agency to review the problems associated with regulation of marine engine discharges and to recommend to the Senate and House Public Works Committees any necessary legislation. Pending the submission of this report we would not expect the Adminstrator to require permits to be obtained for any discharges from properly functioning marine engines or to institute any prosecution for failure to obtain such a permit. This does not, of course, preclude the Administrator from taking action against the discharges from marine engines of harmful quantities of oil under section 311 of the act.

There may be other areas where similar problems are created and we would expect the concerned agencies to bring such problems to our attention at the earliest practicable date in order for us to begin working on a solution.

Section 11 requires the President to conduct an investigation and study of ways and means of utilizing the resources, facilities, and personnel of the Federal Government in the most efficient way in carrying out the objectives of this act. In requiring the President to utilize the GAO in carrying out this study it is not intended that the GAO, which is an agency of the legislative branch, perform work under the direction of the President. However, it is intended that the President utilize both the work done by the GAO in the area of water pollution control in its regular review work and the work that will be done by the GAO under section 5 of this bill.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

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

Mr. MYERS. 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 366, nays 11, not voting 53, as follows:

[Roll No. 408]

YEAS—366

Abbitt	Dickinson	Kemp
Abourezk	Diggs	King
Abzug	Dingell	Kluczynski
Adams	Donohue	Koch
Addabbo	Dorn	Kyl
Alexander	Dow	Kyros
Anderson, Calif.	Downing	Landgrebe
	Drinan	Landrum
Anderson, Ill.	Dulski	Latta
Anderson, Tenn.	Duncan	Leggett
	du Pont	Lennon
Andrews, Ala.	Eckhardt	Lent
Andrews, N. Dak.	Edwards, Ala.	Link
	Edwards, Calif.	Long, La.
Annunzio	Eilberg	Long, Md.
Archer	Erlenborn	McClory
Arends	Esch	McCloskey
Ashley	Eshleman	McCollister
Aspin	Fascell	McDade
Badillo	Findley	McEwen
Baker	Fish	McFall
Barrett	Fisher	McKay
Begich	Flood	McKevitt
Belcher	Flowers	McKinney
Bennett	Flynt	Macdonald, Mass.
Bergland	Foley	
Betts	Ford, Gerald R.	Madden
Biaggi	Ford, William D.	Mahon
Biester		Mailliard
Bingham	Forsythe	Mallary
Blatnik	Fountain	Mann
Boggs	Fraser	Mathis, Ga.
Boland	Frelinghuysen	Matsunaga
Bolling	Frenzel	Mayne
Brademas	Frey	Mazzoli
Brasco	Fulton	Meeds
Bray	Fuqua	Melcher
Brinkley	Galifianakis	Metcalfe
Brooks	Garmatz	Michel
Broomfield	Gaydos	Mikva
Brotzman	Gibbons	Miller, Calif.
Brown, Mich.	Goldwater	Miller, Ohio
Brown, Ohio	Gonzalez	Mills, Ark.
Broyhill, N.C.	Goodling	Mills, Md.
Broyhill, Va.	Grasso	Minish
Buchanan	Gray	Mink
Burke, Fla.	Green, Pa.	Minshall
Burke, Mass.	Griffiths	Mitchell
Burleson, Tex.	Grover	Mizell
Burlison, Mo.	Gubser	Monagan
Burton	Gude	Montgomery
Byrne, Pa.	Haley	Moorhead
Byrnes, Wis.	Hamilton	Morgan
Cabell	Hammer-schmidt	Mosher
Caffery		Moss
Carlson	Hanley	Murphy, Ill.
Carney	Hanna	Murphy, N.Y.
Carter	Hansen, Idaho	Myers
Casey, Tex.	Hansen, Wash.	Natcher
Cederberg	Harrington	Nedzi
Celler	Harsha	Nelsen
Chamberlain	Harvey	Nix
Chappell	Hathaway	Obey
Chisholm	Hays	O'Hara
Clancy	Hechler, W. Va.	O'Neill
Clark	Heckler, Mass.	Passman
Clausen, Don H.	Heinz	Patman
	Helstoski	Patten
Clawson, Del	Henderson	Pelly
Cleveland	Hicks, Mass.	Pepper
Collier	Hicks, Wash.	Perkins
Collins, Ill.	Hillis	Pettis
Collins, Tex.	Hogan	Pickle
Colmer	Holifield	Pike
Conable	Horton	Pirnie
Conover	Hosmer	Poage
Conte	Howard	Podell
Conyers	Hull	Powell
Corman	Hungate	Preyer, N.C.
Cotter	Hunt	Price, Ill.
Coughlin	Hutchinson	Price, Tex.
Curlin	Ichord	Pryor, Ark.
Daniel, Va.	Jacobs	Pucinski
Daniels, N.J.	Jarman	Purcell
Danielson	Johnson, Calif.	Quie
Davis, Ga.	Johnson, Pa.	Quillen
Davis, Wis.	Jonas	Railsback
de la Garza	Jones, Ala.	Randall
Delaney	Jones, N.C.	Rangel
Dellenback	Jones, Tenn.	Rees
Dellums	Karth	Reuss
Denholm	Kastenmeier	Roberts
Dennis	Kazen	Robison, N.Y.
Dent	Keating	Rodino
Derwinski	Kee	Roe
Rogers	Springer	Vigorito
Rooney, Pa.	Staggers	Waggonner
Rosenthal	Stanton, J. William	Waldie
Rostenkowski		Wampler
Roush	Stanton, James V.	Ware
Roy		Whalen
Roybal	Steed	Whalley
Runnels	Steele	White
Ruppe	Steiger, Wis.	Whitehurst
Ruth	Stephens	Whitten
St Germain	Stokes	Widnall
Sandman	Stratton	Wiggins
Sarbanes	Stubblefield	Williams
Satterfield	Stuckey	Wilson, Bob
Saylor	Sullivan	Wilson, Charles H.
Scheuer	Symington	
Schneebeli	Talcott	Winn
Schwengel	Taylor	Wolff
Scott	Teague, Tex.	Wright
Sebelius	Terry	Wyatt
Seiberling	Thompson, Ga.	Wydler
Shipley	Thompson, N.J.	Wyman
Shoup	Thomson, Wis.	Yates
Sikes	Thone	Yatron
Sisk	Tiernan	Young, Fla.
Skubitz	Udall	Young, Tex.
Slack	Ullman	Zablocki
Smith, Iowa	Van Deerlin	Zion
Smith, N.Y.	Vander Jagt	Zwach
Snyder	Vanik	
Spence	Veysey	

NAYS—11

Ashbrook	Griffin	Rousselot
Blackburn	Hall	Smith, Calif.
Camp	Martin	Steiger, Ariz.
Crane	Rarick	

NOT VOTING—53

Abernethy	Gettys	Mathias, Calif.
Aspinall	Giaimo	Mollohan
Baring	Green, Oreg.	Nichols
Bell	Gross	O'Konski
Bevill	Hagan	Peyser
Blanton	Halpern	Reid
Bow	Hastings	Rhodes
Byron	Hawkins	Riegle
Carey, N.Y.	Hébert	Robinson, Va.
Clay	Keith	Roncalio
Culver	Kuykendall	Rooney, N.Y.
Davis, S.C.	Lloyd	Scherle
Devine	Lujan	Schmitz
Dowdy	McClure	Shriver
Dwyer	McCormack	Teague, Calif.
Edmondson	McCulloch	Wylie
Evans, Colo.	McDonald, Mich.	
Evins, Tenn.		
Gallagher	McMillan	

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Rhodes.
Mr. Rooney of New York with Mr. Peyser.
Mr. Roncalio with Mr. Lloyd.
Mr. Nichols with Mr. Dickinson.
Mr. McCormack with Mr. Scherle.
Mr. Carey of New York with Mr. Hastings.
Mr. Abernethy with Mr. O'Konski.
Mr. Hawkins with Mr. Gallagher.
Mr. Blanton with Mr. Bow.
Mr. Bevill with Mr. Kuykendall.
Mr. Clay with Mr. Baring.
Mr. Mollohan with Mr. Halpern.
Mr. Reid with Mr. Bell.
Mr. Evins of Tennessee with Mr. Gross.
Mr. Giaimo with Mr. Riegle.
Mr. Gettys with Mr. Robinson of Virginia.
Mrs. Green of Oregon with Mr. Teague of California.
Mr. Byron with Mr. Mathias of California.
Mr. Aspinall with Mr. Lujan.
Mr. Culver with Mr. McDonald of Michigan.
Mr. Davis of South Carolina with Mr. McCulloch.
Mr. Evans of Colorado with Mrs. Dwyer.
Mr. Edmondson with Mr. Shriver.
Mr. Hagan with Mr. Keith.
Mr. McMillan with Mr. McClure.
Mr. Wylie with Mr. Schmitz.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Mem-

bers may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the conference report (S. 2770) just agreed to.

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

There was no objection.

PARTICIPATION BY UNITED STATES IN HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW AND INTERNATIONAL — ROME — INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW

Mr. FRASER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11948) to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International—Rome—Institute for the Unification of Private Law, 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 5, strike out "is" and insert "are".

Page 1, line 6, strike out "necessary, not to exceed $50,000 annually," and insert "necessary".

Page 1, line 10, strike out "Law." " and insert: "Law, except that in no event shall any payment of the United States to the Conference or the Institute for any year exceed 7 per centum of all expenses apportioned among members of the Conference or the Institute, as the case may be, for that year.".".

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

Mr. HALL. Mr. Speaker, reserving the right to object, may we have an explanation of the Senate amendments and whether or not they are germane to the House bill, and is there an increase in cost?

Mr. FRASER. Mr. Speaker, if the gentleman will yield, there is no increase in cost. We sent over a dollar ceiling for the Senate. They changed the ceiling to one of maximum percentage which the United States can contribute to this international laboratory.

I might say we cleared this with the gentleman from Iowa (Mr. GROSS), who is the ranking minority member of the subcommittee which originally handled this bill, and that is also true of the subsequent measures, along with the gentleman from California (Mr. MAILLIARD), the ranking minority member of the full Committee on Foreign Affairs.

Mr. Speaker, there is no increase in cost; only a change in the form of the ceiling.

Mr. HALL. Mr. Speaker, further reserving the right to object, I think it is very interesting that it has been cleared with important individuals, but my question would go a bit deeper. Who determines the percentage to which we are subscribing by the Senate amendment?

Is that percentage determined as in the case of the special projects of the U.N., such as by majority vote of all those nations participating, and or do we have the right of veto of our taxpayers' funds participating in this? Who determines?

Mr. FRASER. It is fixed by agreement among member nations, but these bills set a ceiling beyond which our representatives cannot agree to pay. For example, in the case of this bill, the ceiling is set at 7 percent. The United States may not contribute more than 7 percent of the total budget of the organization. That is the way the ceiling is fixed. We sent it over with a $50,000 ceiling, but the Senate put it in the other form, and we have no objection.

Mr. HALL. That is the very point of my question. What is the total, and how much is 7 percent of the total? I think the gentleman has implied that the organization itself sets the budget and, therefore, the percentage figure might be more than the fixed figure of $50,000. Is that our position?

Mr. FRASER. We used the 1972 contributions as a test. In 1972, the contribution to the Hague Conference was 6.08 percent, and to the Rome institute was 5.54 percent. So, this comes very close to the percentages that we have added.

Mr. HALL. Is the percentage set in perpetuity, or is it subject to reconsideration by this sovereign nation?

Mr. FRASER. This is a ceiling on what the executive branch can pay. If they want to pay more than 7 percent of the cost, they must come back to Congress and go through the authorization and appropriation process.

Mr. HALL. Of course, Mr. Speaker, my question goes to the point of what would happen if we would want to pay less?

Mr. FRASER. Well, we can pay less. We can pay what is agreed upon by the international organization. Our share may not exceed 7 percent unless Congress decides to raise the ceiling.

Mr. HALL. We will not hold our breath until the international organizations give Uncle Sam something less than the agreed payment, but if the gentleman says it is agreed and subject to the annual appropriations process, I will withdraw my reservation.

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

MEMBERSHIP AND PARTICIPATION BY THE UNITED STATES IN THE SOUTH PACIFIC COMMISSION

Mr. FRASER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 1211) to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission, 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, after "That" insert "section 3(a) of".

Page 1, line 4, after "amended" insert "(1)".

Page 1, line 5, strike out " "$250,000" " and insert " "not to exceed $250,000 per fiscal year" ".

Page 1, lines 5 and 6, strike out "inserting in lieu thereof "$400,000" in section 3(a)." and insert "(2) by inserting before the period at the end thereof the following: "except that in no event shall that payment for any fiscal year of the Commission exceed 20 per centum of all expenses apportioned among participating governments of the Commission for that year".".

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CONTRIBUTIONS BY THE UNITED STATES FOR THE SUPPORT OF THE INTERNATIONAL AGENCY FOR RESEARCH ON CANCER

Mr. FRASER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 1257) to authorize an appropriation for the annual contributions by the United States for the support of the International Agency for Research on Cancer, 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:

Page 1, line 8, strike out "Cancer." and insert "Cancer, except that in no event shall that payment for any year exceed 16 per centum of all contributions assessed Participating Members of the Agency for that year."

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

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask the gentleman if the same answers would apply to relatively the same questions on this measure as the other?

Mr. FRASER. The same answers would apply.

Mr. HALL. Mr. Speaker, I withdraw my reservation.

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

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRASER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the foregoing measures.

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

There was no objection.

CONFERENCE REPORT ON H.R. 10243, TECHNOLOGY ASSESSMENT ACT OF 1972

Mr. DAVIS of Georgia. Mr. Speaker, I call up the conference report on the

bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950, 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 Georgia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 25, 1972.)

Mr. DAVIS of Georgia (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 Georgia?

There was no objection.

The SPEAKER. The gentleman from Georgia is recognized.

Mr. DAVIS of Georgia. Mr. Speaker, H.R. 10243, a bill to establish an Office of Technology Assessment for the Congress, was passed by the House last February after many years of research and preparation, and amended and passed by the Senate several weeks ago. The conference was held on the bill on September 21, and the conference report which is before you has now been approved by the Senate.

It is important to note that this bill was reported from the House committee without a dissenting vote. It was passed by this body by a vote of better than 2 to 1. It was reported unanimously from the Senate Committee on Rules and Administration and was passed by the Senate without a dissenting vote. One Senate conferee was unable to sign the conference report; Senator COOK of Kentucky was called away on an emergency, however, he was a strong supporter of the bill in the Senate Rules Committee and voted both in subcommittee and in full committee to report it.

In asking approval by the House of this conference report, I will limit my remarks to explaining the differences between the bill as it passed the House and those which eventuated in the conference report.

The bill which passed the Senate contained 11 changes of substance from the House-passed version. In conference, the managers on the part of the House made five additional changes. Of the various Senate changes which were made, I think only four are of sufficient significance to describe to you at this time. Of the five House changes made in conference, we believe four are sufficiently important to detail.

Turning first to the changes made by the Senate:

First. The Technology Assessment Board, which is the policymaking body of the Office of Technology Assessment, is composed entirely of Members of Congress. The bill as passed the House provided that the board should consist of five members from the House appointed by the Speaker and five Members from the Senate appointed by the President pro tempore. In each House three Members were to be selected from the majority party and two from the minority party. The Senate provided that the number of members be increased to six from each House, appointed in the same way, three Members each from the majority and minority parties. The reason for this change is described in the statement of managers. Essentially, since the function of the OTA is a bipartisan one designed to serve all committees and both parties in each House, it seemed unwise to politicize the board by structuring it along the lines of a joint committee. Particularly, political alinement seemed inappropriate since the office will be an independent entity within the legislative branch.

Second. The duties of the director of the office were expanded to the following extent. First, the director was made a member of the board, but a nonvoting member with no powers of policymaking. The reason for this change was to make sure that the director would be close to the board, could sit in on the meetings and thus have a much more accurate feeling for the board's decisions and desires with regard to the operation of the office. Second, the director was given authority to initiate assessments provided that he first consults the board with regard thereto. In the bill as passed the House, this authority was vested in the chairman of any congressional committee acting for himself or for the ranking minority member of his committee or upon a request of a majority of his committee—as well as accruing to the board itself. Both methods, of course, remain in the bill, the addition being the limited new authority of the director to inaugurate assessments.

Third. A new advisory council was added by the Senate to assist the board when necessary. All parties agreed, following passage of the bill by the House, that some such council should be established in order to assure the necessary liaison between the office and the public. Such liaison had been provided for in the original bill as reported from our committee, but had been eliminated when an amendment on the House floor changed the character of the board to congressional membership exclusively. The new council would be composed of 10 members appointed by the board from the public, plus the Comptroller General and the Director of the Congressional Research Service of the Library of Congress.

Fourth. The bill as passed the House provided authorization for the office for fiscal years 1973 and 1974, not to exceed an aggregate total of $5 million. The Senate concurred with these figures but provided for a continuing authorization thereafter. The reason for this is primarily to avoid any undue interference with passage of the annual Legislative Appropriation Act. It was felt unwise to place an authorization burden upon the appropriation process for the legislative branch.

In each of the foregoing areas the managers on the part of the House concurred and the changes described are in the report before you.

The changes made by the managers on the part of the House in conference were as follows:

First. The subpena power, which the Senate had added as an incident to the normal authority of the board, was limited in conference so as to apply only to voting members. The purpose of this change was to assure that this authority would not be transferred or delegated to the director or to any person or officer of the OTA who was not a Member of Congress. The House conferees felt that the precedent of subpena powers accruing only to the judiciary or to the Congress per se should be followed.

Second. The Senate provision establishing the Technology Assessment Advisory Council had limited the functions of that council to the specific task of reviewing and making recommendations to the board with respect to activities of the Office or to assessments made for or by the office. House conferees felt that the scope of the council's duties should permit them to undertake such additional activities as the board might desire. Hence a provision was added to this effect. It is our belief that the added provision will give the council not only greater flexibility, but its utility to the board should be much increased.

Third. In the bill as passed the House, supporting services to the office were authorized from both the Congressional Research Service and the General Accounting Office. That version included authority for the Librarian of Congress to make such administrative and structural additions within CRS as he might find necessary to meet his responsibilities under this act. The Senate added a similar provision with respect to the General Accounting Office. In conference, however, the managers on the part of the House felt that this authority with regard to the General Accounting Office might not be consistent with the overall intent of the act. It was pointed out that the sole function of the Congressional Research Service is to provide information to the Congress, while the functions of the General Accounting Office are much broader and embrace a wide segment of the total Federal structure. The conference, therefore, eliminated the Senate's provision.

Fourth. The bill as passed by the Senate contained a section which you will not find in the conference report. This was section 13, which would have made the act effective and the appointment of the members of the board mandatory within 60 days from the date of final approval. The House conferees recommended the deletion of this section and the conference agreed. Thus, as the report stands before us, the act becomes effective upon approval by the President, but there is no duty placed upon the Speaker of the House or the President pro tempore of the Senate to appoint members to the board within a fixed period. This change will give the presiding officers of both Houses more flexible option as to time of appointment—a procedure which we feel is preferable in view of the fact that we are approaching the end of the current Congress and face the

various uncertainties which every major election brings.

In respect to these foregoing changes, the Senate concurred.

Mr. Speaker, I would be pleased to yield to any Member of this body who might have questions on this conference report, and in the absence of questions I yield such time as he may consume to the gentleman from Ohio (Mr. MOSHER).

Mr. MOSHER. Mr. Speaker, if passed by the House, the conference report on H.R. 10243 before us today will bring within the legislative branch of our Government the much-needed means to impartially assess both the benefits and possible consequences of any new technology proposal before any committee of the Congress.

The Office of Technology Assessment should be of great value to all of us, because it will be a technology-predictive tool. In part, its efforts will be directed at examining the effects of the choice of a particular technology at a time when the application of that technology lies in the future. Thus, hopefully, the Congress will avoid many of the problems which we have encountered in the past through implementation of ill-advised technological legislation.

But the OTA also will be expected to play a very positive, affirmative role in vigorously seeking, and calling to the attention of Congress, new opportunities for technology to help solve all types of public problems.

The House conferees were very successful in retaining the intent of the House bill. By and large, the few changes made in conference even further strengthened the measure. The major changes introduced by the Senate were in the composition of the Technology Assessment Board and in the function and authority of the director.

The 10-man, all congressional, Technology Assessment Board approved by the House was increased to a 13-member Board in conference. The reason for this was to restore parity of membership, and to permit a wider range of legislative experience to be included in the Board's makeup. Our full committee concurred with the Senate that the Board, which sets policy for the Office, should not be a partisan controlled group. We have found almost unanimous agreement elsewhere in both the House and the Senate that, in this instance, a joint committee approach would be inappropriate.

The Director of the Office of Technology Assessment was restored as a member of the Board. But, he was given no vote on the Board. His reason for being there is to assure his complete understanding of the Board's policies. Since he is not a voting member, he cannot directly influence the decisions of the Board.

Since the character of the Technology Assessment Board was changed on the House floor by amendment to an all-congressional board, House and Senate conferees agreed that some device permitting liaison with the public should be established. To do this the conferees added a 12-member Technology Advisory Council. Ten members of the Council will be appointed from the public by the Board. The Comptroller General and the Director of the Congressional Research of the Library of Congress comprise the remainder of the Council. The Advisory Council has no powers other than to advise the Board and to perform such tasks as the Board may direct, but that role can be very significant. In fact, we think it essential.

Other important changes in the conference bill include a provision for continuing authorization, and the limiting of the subpena power to the congressional members of the Board. Since funds for the Office will be provided for in the Legislative Appropriations Act, it appeared impractical to hold up the appropriations process for the total Congress each year until special authorization could be provided for the Office of Technology Assessment.

Mr. Speaker, the House and Senate conferees gave unanimous bipartisan approval to this conference bill. It was felt that the major requirements and desires of both the House and the Senate were embodied in the bill which came out of conference. I know that I speak for all the minority members of our committee in urging passage of H.R. 10243.

Mr. COUGHLIN. Mr. Speaker, I rise in support of the conference report on H.R. 10243, the bill to establish an Office of Technology Assessment.

This conference report, which was unanimously agreed to by the House and Senate conferees, is the result of the most thorough consideration and review. I would like to congratulate all conferees for their commendable performance.

Mr. Speaker, this legislation addresses one of the more pressing needs in today's society—the need to improve our means of forecasting and evaluating the influence of new technology on our lives and on our world.

We all recognize that the assessment of technology should both evaluate and anticipate the full implications of scientific and technical change. In the past, however, very few such full-scale technology assessments were ever conducted. In contrast, we see a history of partial and incomplete assessments—generally limited to the superficial impact on society, and more recently, the environment.

This is precisely the dilemma facing the Congress. Increasingly we are being confronted with more and more issues with heavy technical and scientific content. But the problem is that the Congress is ill-equipped to fully assess the more complex issues.

This is not to criticize the highly competent and expert assistance we receive from our own committee staffs or from the GAO and Library of Congress. But the point is that the critical import of our work requires highly expert technology assessment support which is fully dedicated to the needs of the Congress. The new office will uniquely fill this void.

Certainly none of my colleagues needs to be reminded of the programs in which an Office of Technology Assessment would have clarified and better defined the pertinent issues. The SST, the ABM, and the Alaskan Pipe Line are typical of the debates in which the Congress suffered from an "information gap."

Science and technology today have major roles to play in our Nation and in the world. However, we must be far more attentive in the integration of our work into existing economic and social frameworks. I mention transportation, environment, and housing as just a few of the many issues, which because of their technology content, will require intensive review by the Congress.

Mr. Speaker, I attach great importance to seeing that the Congress maintains its preparedness to serve the people. I feel that the creation of an Office of Technology Assessment—cooperating with and serving the Congress—will serve as the keystone to our future progress in evaluating and managing scientific and technological issues. I cannot understate, therefore, the pressing need for the prompt establishment of the new Office of Technology Assessment.

I urge my colleagues to join with me in supporting H.R. 10243.

Mr. MILLER of California. Mr. Speaker, I have just several brief comments I would like to make concerning this bill to establish an Office of Technology Assessment.

I would like to observe to begin with that the Congress has never been overly generous with itself in providing service organizations to assist in the legislative process. I do not say this in a critical vein. On the contrary, I think it is admirable that the Congress has been flexible enough and capable of contending with new situations without having to set up new agencies to assist it every time we turn around.

If this office is set up, however, it will only be the third time that Congress has set up an independent entity within the legislative branch to serve its own needs. The first time was in 1800 when the Library of Congress was established. The second time was in 1921 when Congress created the General Accounting Office. There are, of course, other departments in the legislative branch, such as the Government Printing Office, which services the entire Government, and several smaller, specialized offices.

But it seems to me significant that the Congress is giving serious consideration at this time a new organization which will permit it to make better and more independent judgments on many of the issues which are arising today.

That fact alone, I think, demonstrates the need for an OTA. If there were any further doubt, I think it is evident in the fact that such a high percentage of all national issues which are arising in modern times are involved in some way with a marked technological component. If you will just run through the bill digest some time, you will find that half or better of all bills introduced contain such a component to one degree or another.

I do want to emphasize, however, that if the OTA comes into being with the action of the House today, and the ultimate approval of the President, this will simply mark the completion of phase I in the technology assessment story. It has been a long and complex

phase, one that has involved a great deal of study and work by many fine people. This phase is now well into its seventh year.

But phase II, it seems to us, will probably be equally critical or perhaps more so. This phase will encompass the first efforts of the office to be of service to its sponsor—that is, the Congress. I imagine that the success or failure of the OTA will depend on a wide variety of things; but chief among them will be the makeup of the policy board and the degree of its determination to make the office succeed, the character of the director and his ability to foresee issues that are likely to become paramount in the legislative atmosphere, and the willingness of the Congress to provide the office with sufficient funding to do the job which it is required to do.

In this connection I urge my colleagues in the years ahead, particularly the next 3 or 4, to give the office their support and their patience.

It is going to take time to develop techniques for doing first-rate technology assessments. It will take time to learn where the obstacles and the pitfalls may lie, and I suspect that the office will fall over or into a few before it is able to develop consistency, accuracy, and sharpness in its approach.

But I believe that if the Congress is patient and gives the office the backing it needs in these critical years, the rewards in terms of more precise legislative targeting will be great.

Mr. CABELL. Mr. Speaker, the conference report which is before us, I believe, is very much as the gentleman from Georgia (Mr. DAVIS) has implied—which is to say that it is basically a good, clean bill which shows the benefits of careful scrutiny by all parties concerned.

I believe that the report reflects a proper blend of extensive work done by the House Committee on Science and Astronautics over a number of years, of astute amendments offered on the floor of the House by my friend and colleague from Texas (Mr. BROOKS) and of refinement in the Senate.

I believe this report presents to you a bill which is a better one than was reported from our committee and that it has been improved still further in conference.

The actual changes in it have been described to you by our subcommittee chairman, and I still will not endeavor to repeat those. However, I do want to set forth my conviction that those changes were necessary and that they were not a departure in any major way from legislation which the House passed several months ago.

Most importantly, we have retained the all-congressional character of the board. We have provided the Director with some additional authority and flexibility in undertaking his duties, but have been careful not to increase his power beyond the limitations which were embraced in the House debate and in its action on the bill. We have established a new advisory council, the need for which was agreed upon unanimously—by House members, by Senators, and by industrial, business, and academic leaders, in testimony before the Senate which followed the House action. That council, as you have heard, will make sure that the American public will be able to reach the ear of the OTA through the advice which the council is authorized to provide to the policymaking board.

The other changes are described in the statement of managers and need no elaboration from me.

I would simply like to observe that the conference on this bill was worked out carefully and that the managers on the part of the House, and I was privileged to be one of them, took particular pains to be sure that the end product was consistent with the concepts which had been developed in this body.

Mr. SYMINGTON. Mr. Speaker, the report which we are considering today is, I believe, an excellent one and I urge its approval by the House. In doing so I would like to draw the attention of this body to two facets of technology assessment which, to a considerable extent, have been underplayed.

First is the importance of timing, especially the importance to the legislature of gaining an insight into the various ramifications of policy before it is time to determine that policy through statutory law.

Let me cite a case in point.

In the United States, as a result of the pollution problem, Congress enacted a Clean Air Act about 4 years ago. This act has been amended several times, particularly with regard to setting standards for automotive emissions. Hence the automobile industry in America is and has been under severe pressure to make the current generation of internal combustion engines relatively pollution free.

Some success has been achieved in reaching this goal, but what else has happened? At least three new problems have sprung up.

First. The new cars with the complex pollution control devices are often balky and sometimes dangerous—dangerous particularly in the sense that they may not have acceleration sufficient to avoid hazardous traffic situations.

Second. A large number of the best automotive engineers have been pulled away from research on a better basic engine to concentrate on jerry-rigging pollution controls for the current crop of cars.

Third. The new pollution controls cause a very marked increase in the consumption of fuel—perhaps as much as 20 percent.

Any one of these effects is enough in itself to place the relative benefits thus far achieved in some doubt.

The interesting question here, however, is why this happened.

The initial reason appears to be that by the time Congress began seriously to consider automotive pollution controls, the public was aroused, emotional, and demanding quick action.

Another reason was that by the time hearings began on proposed legislation, many of the key Members of Congress were already committed to a "quick fix." In other words, Members were locked in before they had a real data base from which to work.

Thus some witnesses were not permitted to bring up or discuss any point which was not directed exclusively to answering the question of whether pollution controls could be installed on contemporary auto equipment. We in Congress wanted a "yes" or "no" answer to this, technologically, and sometimes cut off significant consideration of other factors.

In view of the energy crisis, particularly, and rapidly growing concerns over the explosive consumption of fossil fuels, the legislative response to the air pollution problem thus far—while understandable—remains subject to criticism.

Would the existence of a competent Office of Technology Assessment have helped alleviate this situation? One is inclined to think it would.

The second matter I would like to mention concerns what might be called the "plus side" of technology assessment.

Almost all of the discussions, writings, and descriptions of technology assessment tend to emphasize the negative factors of a given technology and the so-called unexpected detrimental side effects. Even in the category of assessments which might be described as mission or problem-oriented, where the general character of the desired technology is fairly well established—for some reason the drawbacks to using that technology are inevitably played up, and those who are struggling with the technology assessment concept find themselves immersed in an atmosphere of negativism.

This factor is apparent in the semi-assessments which have been made regarding auto pollution, inner city transportation, solid waste management, product safety, global environment, noise levels, occupational health, power failures, and so on.

However, connecting the potential uses of new scientific discoveries with problems which exist but which may not be recognized as such, is something else. And this is what I am talking about. It seems to me that the potential here has been badly underplayed.

It is a phase of technology assessment which perhaps can be illustrated by the laser.

At the time the feasibility of the laser was first demonstrated, few of the people who now make extensive use of that device had any idea that they had a problem the laser could help with. The ophthalmologic surgeon was reasonably content with the techniques then available to him. So was the engineer engaged in underground tunneling. So was the surveyor, the aircraft controller, and the manufacturer of aircraft instruments. So were many of the scientists in the Defense Establishment who felt that their current weapons were reasonably up to date and sophisticated.

Yet all of these people, plus many occupied in other activities, have found the laser to be of genuine value.

Another example, concerning a well-established technology, the computer, is in the area of health screening, medical services and hospital administration, and operating room procedures. Only a few of the advantages which the computer can provide in such fields are being employed, while many persons working in

them are convinced that a lot of the best possibilities have not been tried seriously or even thought of.

It seems to me that any office of technology assessment designed to aid the government processes must incorporate some activity which is devoted to putting technology to better and better managed uses.

Mr. DAVIS of Georgia. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DAVIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the conference report just agreed to.

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

There was no objection.

CONFERENCE REPORT ON S. 976, MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

Mr. STAGGERS. Mr. Speaker, I call up the conference report 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, 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 West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 28, 1972.)

Mr. STAGGERS (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 West Virginia?

There was no objection.

The SPEAKER. The gentleman from West Virginia is recognized.

Mr. STAGGERS. Mr. Speaker, the bill S. 976 is principally intended to reduce the damage susceptibility of passenger motor vehicles and to make vehicle accident damage less expensive to repair. This is to be accomplished by: First, directing the Department of Transportation to establish Federal standards designed to eliminate or substantially reduce property damage in low-speed collisions; and second, by establishing and putting in motion a consumer information program intended to stimulate competition among manufacturers to produce vehicles which are more resistant to damage, safer and less costly to repair or service. This bill would also direct the Department of Transportation to establish a series of demonstration projects to determine the feasibility of using diagnostic procedures to test for compliance with safety and emission standards. Finally, the bill would establish a national policy against odometer tampering as a means of curtailing practices which are employed to deceive purchasers of motor vehicles with respect to a vehicle's true condition or value.

Mr. Speaker, with relatively few substantive amendments, the committee of conference has agreed to accept the House bill. Let me comment briefly on the most significant matters agreed to in conference.

As the Members will recall, this bill consists of four titles. In title I, the Senate bill proposed to give the Department of Transportation broad powers to set minimum property loss reduction standards for passenger motor vehicles. A property loss reduction standard was defined to mean a minimum performance standard established for the purpose of increasing the resistance of passenger cars to damage resulting from motor vehicle accidents or for the purpose of reducing the cost of repairing accident damage. The House bill limited the grant of authority in title I to the power to establish bumper standards designed to reduce accident damage to the front and rear end of a passenger motor vehicle. The committee of conference has decided to take the more limited approach recommended by the House.

As I stated when this matter was first before the House, a bumper standard which requires protection of the external sheet metal of motor vehicles in low speed collisions would provide the maximum cost savings to the public.

The first amendment of significance to the House bill relates to criminal penalties for violations of the act. Under the Senate bill persons who knowingly manufactured and distributed vehicles in violation of standards were made subject to a $5,000 fine and could be imprisoned for up to 1 year. The House bill did not impose a criminal penalty.

The committee of conference has agreed upon a criminal penalty in circumstances where persons knowingly and willfully violate certain provisions of the act after having received notice from the Department of Transportation of such violation. In other words, if the Department of Transportation tells a person that what he is doing, or what is about to do, will violate the act and that person then in disregard of the Department's notice knowingly and willfully violates the act he may be subjected to a criminal penalty.

I want to report to the House that it was the concensus of the committee of conference that the Congress should in the early part of the next session consider whether to amend the National Traffic and Motor Vehicle Safety Act of 1966 to impose criminal penalties for violations of that act. The form in which criminal penalties are incorporated within this bill, S. 976, should not be interpreted as a determination that a similar provision would be appropriate in instances where safety requirements are violated.

The second substantive departure from the House bill relates to the authorization levels contained in title III of the bill. This title directs the Department of Transportation to establish demonstration projects to explore the feasibility of using diagnostic test devices to conduct safety and emission inspection of motor vehicles. The Senate bill provided an authorization of up to $200 million for this program. The House bill limited the total amount over 3 fiscal years to $50 million. There is obviously a considerable disparity between these two figures. The committee of conference has agreed to increase the House amounts by a total of $25 million. Accordingly, the authorization in title III will now permit spending of $15 million for fiscal year 1973, $25 million for fiscal year 1974, and $35 million for fiscal year 1976. I wish to emphasize that the increase of $25 million agreed to by the committee of conference is still far short of the Senate authorized amounts. In fact the increase is less than one-sixth of the difference between the House authorized levels and the amounts permitted under the Senate bill.

The statement of managers of the committee of conference, of course, notes all additional substantive areas in which the conference substitute differs from the House bill. I recommend, without reservation, that the House agree to the conference report.

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

Mr. STAGGERS. I yield to the gentleman from Illinois, the ranking member of the committee.

Mr. SPRINGER. I do not want to delay this in the House, but I think this is important. This was the automobile standards bill, and at the beginning we ought to know what the provisions of the bill are, and I will run through them quite briefly.

First, the standard setting authority is confined to bumpers. Most of us will ask why that is, and I think principally it is because this is where the great weakness is in the damage that is caused in any automobile accident, and it is the bumper problem that we want to work on at this time.

Second, we provide for oral argument in the House version, as oral argument in the setting up of the rules with reference to that.

Then, the disclosure of trade secrets, as in the House version.

The other body would have industry-donated test cars; we provided the conference version would allow payment up to manufacturer's cost.

Certification requirements were modified to provide for rules and for certificates only as to bumpers.

The sixth point is: We specified that the bumpers should be practicable and allow for the use of bumper hitches; that is, the hitches that you use to hook something else behind the automobile.

I think one important provision is that the maximum civil penalty was raised from $400,000 to $800,000 for multiple violations.

We do provide criminal penalties, not in the House version, that were added in the same terms as used in the product safety bill. This requires prior notification of noncompliance and willful vio-

lation. I think we spent most of the time in conference on criminal violation, and that took us over to the second day.

The rest of the House bill remained intact, except for a compromise on authorizations for diagnostic center demonstration projects.

The other body had $200 million over 4 years, and the House had $50 million over 3 years, and the conference settled on $75 million over 3 years.

Mr. Speaker, those are the compromises we made, and I believe it is a good bill and the best one we could get. We were 2 full days on it.

Mr. Speaker, I recommend its passage.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 1316, TO FEDERAL-STATE MEAT AND POULTRY INSPECTION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1144 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1144

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(3) of rule XI 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 (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 per centum 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. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SISK. 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, House Resolution 1144 provides an open rule with 1 hour of general debate for consideration of S. 1316 to amend the Federal Meat and Poultry Inspection Acts. In addition, points of order are waived for failure to comply with clause 27(d)(3) of rule XI—3-day rule regarding supplemental, minority, or additional views in committee reports.

The purpose of S. 1316 is to increase from 50 to 80 percent the Federal Government's share of costs of any cooperative meat or poultry inspection program of any State. If any requirements are imposed by any State which are different from or in addition to the Federal requirements, Federal funds shall be withheld.

Additional costs of the program to the Government are estimated at $16 million, which projection was for fiscal year 1972.

Mr. Speaker, I urge the adoption of House Resolution 1144.

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

Mr. Speaker, as the distinguished gentleman from California (Mr. SISK) has stated, this resolution, House Resolution 1144, provides for an open rule with 1 hour of debate for the consideration of S. 1316, to amend the Federal Meat Inspection Act. We waived the 3-day rule having to do with committee minority reports. The gentleman reserved the right, in making his statement before the Committee on Rules, to make a point of order, but, of course, any other Member would be safe if he did that.

Mr. Speaker, I am not too greatly enthused about this bill. Whether it is 50 percent or 80 percent, I do not know why they cannot take care of it in the State. I do not see why they cannot take it over, because they can certainly afford to spend $2 million in the State of California. After all, they get a great many millions of dollars out of the $31 billion that we will give them in our revenue sharing, and they can use it on that.

In any event, it seems that we want to go on and on and give more and more. This may cost us as much as $31 million.

Mr. Speaker, I have no objection to the rule, and I urge its adoption.

Mr. SISK. 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.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 984, U.S. PARTICIPATION IN INTERNATIONAL BUREAU FOR PROTECTION OF INDUSTRIAL PROPERTY

Mr. FRASER submitted the following conference report and statement on 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:

CONFERENCE REPORT (H. REPT. No. 92–1527)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 984) to amend the joint resolution providing for United States participation in the International Bureau for the Protection of Industrial Property, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 2 and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

On page 1, line 7, of the Senate engrossed amendments, strike out "4" and insert: "4.5".

And the Senate agree to the same.

D. M. FRASER,
DANTE B. FASCELL,
Managers on the Part of the House.

J. W. FULBRIGHT,
JOHN SPARKMAN,
GEO. D. AIKEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 984) to amend the joint resolution providing for United States participation in the International Bureau for the Protection of Industrial Property, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

PERCENTAGE CEILING ON U.S. CONTRIBUTIONS

Senate amendments (1) and (2) are technical amendments to which the House agrees.

Senate amendment (3) added the following words at the end of the House bill "except that in no event shall the payment for any year exceed 4 per centum of all expenses of the bureau apportioned among countries for that year."

The House agreed to the Senate amendment with an amendment setting the figure at 4.5 per centum.

D. M. FRASER,
DANTE B. FASCELL,
Managers on the Part of the House.

J. W. FULBRIGHT,
JOHN SPARKMAN,
GEO. D. AIKEN,
Managers on the Part of the Senate.

FEDERAL-STATE MEAT AND POULTRY INSPECTION

Mr. SISK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 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.

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 S. 1316, with Mr. SYMINGTON in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from California (Mr. SISK) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. MAYNE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the principal purpose of S. 1316 is to change the ratio in connection with Federal-State sharing from 50–50 to 80–20.

There was adopted in the committee at the time of the consideration of this bill an amendment dealing with some problems that have been raised in connection with State requirements having to do with the process of labeling as to contents and so on.

There was an amendment proposed by the administration which was adopted which will, of course, be offered at the appropriate time as a committee amendment. As I say, this legislation is actually quite simple. It changes from the 50–50 percentage at present in connection with the equal sharing between the Federal and States in connection with cooperative agreements to the situation where the Federal Government would pay 80 percent and the State would pay 20 percent.

The legislation was brought about by the fact that the States were finding it very difficult to finance their inspection costs, and yet there was a continuing desire to participate in these cooperative agreements.

Actually, what was occurring was that there were a number of States finding themselves without funds, and were notifying the Department of Agriculture that they were going to throw in the sponge, so to speak, because they could not continue funding under the present program, and therefore, that the Federal Government would have to take over the total cost. And of course that is the situation in some of the States already where they have not been willing to pay the 50 percent.

It is generally felt that a number of these States under an 80–20 sharing program would again participate, and that they would work out cooperative agreements. In most cases the States feel that there are certain advantages to be gained by participating in these programs, and because they feel that particularly the small packers and those areas where you have small slaughtering plants and locker plants, and so on, are really in a little bit better shape than they would otherwise be.

So there is a considerable desire in a great many States to see this change brought about. As a result of that, the Committee on Agriculture, after due consideration, reported favorably on this piece of legislation, and of course we have it here before us today.

Mr. Chairman, I am in support of the legislation, and would hope that it would be adopted.

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

Mr. Chairman and members of the committee, when we passed the Wholesome Meat Inspection Act of 1967 the Congress very clearly reserved certain rights of inspection in intrastate matters to the State, and provided for a 50–50 sharing of the cost between the Federal and State governments in such State inspections.

Many of the States had very, very inadequate meat inspection at that time, and some had none at all, but in 3 years they have made tremendous progress and they are certainly deserving of congressional support in having brought their standards up to the Federal level, and this really is a great achievement in such a short time, and State inspection throughout the country now does guarantee wholesome meat to people in the small communities which are served by the State-inspected plants. There is only about 10 percent of the meat in this country that is so inspected because the great majority of it is packed and inspected in the plants of the large packers, like Swift and Iowa Beef Processors, and the others giants of the packing industry.

We are talking here and I am concerned in this bill about the small independent businessmen in very small rural communities who have no other slaughtering and butchering facility available to them except that of the State inspected plants.

This has been a very, very expensive thing for the States and they have testified at our hearings through the National Association of State Departments of Agriculture that they simply cannot go ahead on the present 50–50 basis. Twenty-five of the States, we were told by the witnesses from the National Association of State Departments of Agriculture, are in such a very critical financial situation that they will have to abandon State inspection unless there is a larger Federal contribution, the 80 percent contribution provided for in this bill.

Another 11 States are in a critical financial condition and may very well have to abandon State inspection.

Now while it is true that under this bill the Federal contribution will be raised to 80 percent, the alternative, ladies and gentlemen, is that if this bill is not passed, Federal inspection will have to take over 100 percent, because the record is clear that these States that now have State inspection are not going to be able to continue to bear the burden.

So it is going to save money for Uncle Sam to pass this bill, because the 80 percent provided by this bill is cheaper than 100 percent, which Uncle Sam would have to be paying if the bill is not passed.

And furthermore it is going to be 100 percent of a much larger amount—because Federal inspection is always more expensive. Anything that the Federal bureaucracy does seems to cost more money than what is carried on by State and local officials closer to home.

In my State of Iowa the cost of the State's share of inspection expense is now running about $400,000 a year out of a total of $800,000 and the Federal contribution is $400,000. If this bill becomes law, the Federal share would be 80 percent or $640,000 that the Federal Government would have to pay. That is much less than what you would wind up seeing the Federal Government paying if the Federals have to take over the inspection entirely, because the Federals cannot do it for $800,000.

There is no doubt that the Federal Government, with its proliferating bureaucracy and with more and more of these Federal inspectors coming in as they are now three and four and five at a time to harass small independent plants and running up large overtime charges, will find meat inspection costing it much more than the present $800,000 total in Iowa. It will probably cost at least a million dollars and perhaps $1.5 million to have 100 percent Federal inspection in the State of Iowa.

State inspection is much more adaptable to and understanding of the problems of our small communities. And believe you me rural America needs some help here. I am pleading with the members of this committee that we have got to do something for the small independent businessmen who are struggling to survive in these communities and the little locker plants that perform a very indispensable service not just to the people of the rural communities but to the farmers who can bring in their livestock and have a critter slaughtered and butchered and cut up and wrapped and frozen. They cannot get that kind of service from the large meat packers in the cities.

The State inspectors are local people who are veterinarians for the most part. They understand the needs of their communities much better than bureaucrats at the seat of government and apply a much more reasonable interpretation of the law which is entirely adequate. The small independent businesses are providing good, wholesome meat for the people of rural America, and we have just got to keep State inspection going so that they can continue to do so.

In my State alone 60 locker plants in little communities may well be forced out of business if the 80-percent–20-percent law is not passed by the House tonight. They do not feel they can survive under the very arbitrary and rigid Federal inspection which is designed for and appropriate to the large, modern packing plants but not to the little independent locker plants where everybody in the community knows what conditions are and keeps a personal scrutiny over the cleanliness and wholesomeness of conditions in such plants.

We must not let these independent small businesses which perform such a vital function go under because we were not willing to make this change which will keep State inspection systems operating.

Mr. Chairman, I have heard from many citizens in many small towns in my State of Iowa. I have a number of letters here. Some of them, true, are locker plant owners who see their life work threatened by the Federal Government takeover, but many of them also—I would say several hundred of these petitions—are from just plain people who are getting service that they will not get if the Federal Government takes over.

Mr. Chairman, and my friends of the House, if we do not pass this 80–20 bill, the States are going to have to abandon inspection. It is going to be taken over by the Federals, and it is going to cost Uncle Sam a whale of a lot more money than the 80–20 bill.

I urge all of the Members to vote "yes" on the bill.

Mr. SISK. Mr. Chairman, I yield to the gentleman from Louisiana (Mr. RARICK).

Mr. RARICK. Mr. Chairman, I rise in support of S. 1316, legislation to provide for 80 percent funding of the States

under the Federal meat inspection programs.

The question, Mr. Chairman, is not the amount of money that this legislation will cost the Government, but rather we should consider the amount of money that will be saved if the Congress acts now to help the States finance meat inspection.

Mr. Chairman, continued State participation in these cooperative meat inspection programs is certainly desirable if we really mean what we say about Federal-State relations.

If the 80–20 funding is not passed, I shudder to think of the consequences to the consumers. Already too much Federal redtape and direct intimidation of State inspection programs has closed the door of many local and State meatpackers. If this bill is not passed, the day may well come when cities and even States may not have a single meat processing plant in operation. I for one do not believe the people of Louisiana are quite ready to be dependent on the packers of Chicago, Omaha, or New York.

If this bill is not adopted, many States are ready to surrender all meat inspection programs to the Federal bureaucracy at 100 percent Federal cost. The closing of more and more State meatpackers will not only result in complete Federal takeover of meat inspection programs, but will give a national monopoly to the national meatpacking concerns.

If the Members of this House think that the pressure from housewives disturbed at high meat prices is bad now, what can we expect when the national packers enjoy a federally protected monopoly?

I opposed the wholesale meat inspection bill in 1967 because I feared it was the blueprint for a Federal takeover and not truly a Federal-State participation. Opposition to this present bill confirms my earlier fears.

Passage of this legislation is in the best interests of the consumers and protects the economy and what little States rights that may be left.

I urge favorable consideration of the bill S. 1316.

Mr. SISK. Mr. Chairman, I yield 10 minutes to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, the gentleman from California (Mr. SISK) has, I think, given the impression that this is just kind of a routine housekeeping bill to raise Federal contributions for State meat inspection systems from 50 to 80 percent. On the contrary, I think it is one of the most important consumer issues that this Congress will act upon. In voting for this bill we will be taking a very strong step backward in an area where Congress, I think, in recent years has established a positive record.

In 1906 the United States established a Federal meat inspection system which is the best in the world. In terms of meat inspection systems, there is no system in the world that surpasses it. Until 1967 the States had a very sorry record in this same area. The law since 1906 has been generally this: That any packing, slaughtering, processing operation in meat or poultry which sells in interstate commerce, in the technical sense that sells a pound across the State line, must be Federally inspected. There is no choice about that. It has been the law for well over half a century. The only inspection that can exist by States is inspection of a product that does not move outside of the State boundary.

Before 1967 some States had no inspection system at all. Others had only voluntary inspection, and some had a technically well written inspection law, but none actually implemented that system to the standards of the Federal system.

The finest State meat inspection system by clear consensus prior to 1967 was that of the State of California. The testimony of the former director of that system, the present Assistant Secretary of Agriculture, Assistant Secretary Link was that in 1967 not even the State of California could be certified as "equal to" the Federal system.

In 1967 we authorized 50 percent cost sharing for those States that wanted to bring their meat inspection systems up to Federal standards. If they did not bring their systems up to Federal standards, then all meat processed in the State, either interstate shipped meat or intrastate meat had to be federally inspected. At present eight States and three territories have a totally federally inspected system.

The proposal here is to increase that cost sharing from 50 percent to 80 percent for those States that continue to operate State systems.

Why is this bill before us? I will tell members of the committee why it is before us. It is because many State directors of agriculture cannot convince their own legislatures that State meat inspection systems are worthy of support when half the bill is being paid by the Federal Government. They simply do not have an argument that is convincing with their own State legislatures. Because of that, because they are unable to convince their own State legislatures of the merits of continuing these State systems, at 50 percent of the cost, they are coming now and asking Congress to pay 80 percent of the cost.

In the revenue sharing conference report shortly to reach this body there is a limitation I believe of $2.4 billion on social services cost sharing which has been a major problem because it is being funded at 3-to-1 Federal-to-State dollars. Those programs have escalated geometrically in recent years as States have come from $400 million to $600 million to $1 billion to $3 billion, with future costs going through the roof.

Now we have a modest little proposal to have a 4-to-1 cost sharing on a State program. If we enact this legislation we are going to be asked to provide 80 percent cost sharing for the State fire protection systems and for State health systems and for State police systems. What a bonanza for the States to have 80 percent of a State program financed by the Federal Government. What an economy for the States to have eight out of every 10 dollars supplied by some other body raising taxes from a different source.

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

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

Mr. FINDLEY. Mr. Chairman, I commend the gentleman from Washington on the statement he is making.

Mr. Chairman, the gentleman mentioned the progress on the revenue-sharing bill which, I assume, will soon be before us in the form of a conference report. That will provide that the States if they see fit could be drawing upon some of the revenues to be shared by that act to make up the difference between the 50 percent they are now getting and the 80 percent desired in this bill.

Mr. FOLEY. The gentleman is precisely correct. I supported the revenue-sharing concept but I am reluctant to see revenue sharing enacted giving the States the right to draw on these Federal funds for just such programs and then have us in turn come in and contribute 80 percent of the cost of the program.

Far from being an economy move as was suggested by the gentleman from Iowa, on the basis that contributing 80 percent is better than contributing 100 percent, this will have a contrary effect. Once this principle is established of having a State government function funded by the Federal Government at 80 percent, there will never be an end of the line. If we are going to accept this demand, how will we turn down other State agency requests which will be rushing in to share the bonanza? If we are going to put a limit on health or social services, cost sharing, recognizing that is a problem, and then we are going now to come along and open the door again with the State meat inspectors, where will it stop?

Mr. Chairman, I have no objection to the States having meat inspection programs. That is perfectly guaranteed under the 1967 act. We give them 50 percent of the cost of that if they want to maintain it, but if the State does not want to maintain the meat inspection system, if in the wisdom of their own legislature they want to give up maintaining the separate meat inspection system, why should we in Congress then contribute 80 percent of the cost to inveigle them into doing that?

The gentleman from Iowa suggested this is in the interest of the small meat packing local operations.

Nothing in the law justifies a single different standard between the Federal and the State systems. The gentleman seemed to imply to me that if we have a State meat inspection system, they would be a little easier. The States under the 1967 law must have equal standards. If they do not have equal standards, if they are not just as rigorous with the small plants as with the large; not just as vigorous in the State system as in the Federal, they are violating the law.

The Department of Agriculture, if it certifies such a system, is violating the law. Indeed, there is some question of whether the Department has not been a little eager to certify these State systems. The attitude of the Department is described as tolerant in our hearings.

There is presently being undertaken a

General Accounting Office audit to determine whether the Department of Agriculture has, in fact, properly certified some of these State systems. That audit will not be available until April of next year.

At the very least, we should postpone this legislation until such time as we have an opportunity to see the results of that State audit, which will also compare the efficiency of State and Federal meat inspection in several States.

Mr. Chairman, I think it is unfortunate that Members have gotten the impression from their State meat inspection system officials that there is something especially valuable about State meat inspections. There is no State in the Union, in my judgment, and I think on the record in the judgment of most people who have examined this question thoroughly, that there is a superior system than the Federal Government. There is no such State. The official testimony of the Department of Agriculture was that there was clearly no such State prior to 1967.

The federal system has been perhaps of all of our health legislation agencies, the pride of our country.

Mr. GERALD R. FORD. Will the gentleman yield?

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

Mr. GERALD R. FORD. I hope the gentleman did not mean to indicate that some States, one of which is my State of Michigan, do not have the higher standard than the requirements called for.

Mr. FOLEY. I meant precisely that. There are areas, individual requirements in some meat inspection systems, which are more rigorous than the Federal Government. Michigan has one on protein ingredient of hot dogs which is higher and more rigorous than the Federal standard.

My State, Washington, had one requiring viewing bacon in packages which the Federal Government has now adopted.

But, in my judgment, there is not a State, including Michigan, Washington, California, that overall, considering the level of training, and the efficiency of its operation, and the rigorousness of its protection of health and sanitation, that is even equal to the Federal Government, although many have been certified as such.

The proposal which lurks behind this particular legislation is a proposal to allow, as the Department of Agriculture has suggested, State meat inspection systems to move meat products in interstate commerce. If that occurs, we will have the death of the Federal meat inspection system. We will have a reversion of almost, now, 70 years of extremely beneficial Federal protection of our consumers.

Mr. MAYNE. Will the gentleman yield?

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

Mr. MAYNE. I am sure the gentleman from Washington would not want to inadvertently leave the impression that there is such a provision in the bill that will permit State-inspected meat to move in interstate commerce.

Mr. FOLEY. No. I want to certainly make that clear. It is not in the bill, having been rejected by the committee.

But, I am saying for the record, that I continue to be distraught, and I am distraught with the Department's incredible, incredible support for such a dangerous and ill considered proposal.

Mr. MAYNE. I yield 1 minute to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I should like to point out to the Members of the House that this is just one more instance of the States getting their hands deeper into the Federal till. If I were a wagering man I would wager that next year or the year after we will be asked to pay 100 percent.

In spite of the fact that my friend from Iowa has made a very strong plea for this bill, I question seriously whether there is a State in the Union which is in as bad a financial position as the Federal Government. I simply do not believe there are States which do not have the money to pay half of their inspections.

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

Mr. GOODLING. I am glad to yield to the gentleman from Indiana.

Mr. LANDGREBE. Does the gentleman really believe with a Federal payment of 80 percent and a State payment of only 20 percent we will have more States rights and more States responsibility in this matter?

Mr. GOODLING. No, we will have less. The more money the Federal Government pours into any State the more jurisdiction it will have over that money.

Mr. LANDGREBE. Does the gentleman have any reason to believe the Federal inspectors are more competent and better equipped to make honest inspections of meat and meatpacking companies than State inspectors?

Mr. GOODLING. At the present time we have Federal inspectors in Pennsylvania just because the general assembly failed to appropriate the money. Prior to that time we had all local inspectors, and they were doing an excellent job.

Mr. MAYNE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PRICE), a member of the committee.

Mr. PRICE of Texas. Mr. Chairman, I should like to point out a few things regarding this bill, which I support very strongly.

This bill will create strong incentives for States which have developed inspection systems equal to the Federal system, to continue to operate and improve these systems.

Since late 1967, when the Federal Meat Inspection Act was amended by the Wholesome Meat Act, some 44 States have developed meat inspection programs equal to the Federal program. Nearly all of these States had grossly inadequate meat inspection programs 3 years ago. That they have been able to develop effective inspection programs in such a short period of time is a remarkable achievement. And most important, it clearly demonstrates their commitment to the partnership approach to Government that Congress has supported.

Unfortunately, the Wholesome Meat Act provides no incentive for States to continue their meat inspection programs; in fact, it provides a financial disincentive. A State must now bear 50 percent of the cost of carrying out its meat inspection program. But this cost may be totally eliminated simply by turning the program over to us. With the financial bind that is prevalent in State government everywhere, many Governors and legislatures are contemplating doing just that. By turning the whole thing over to the Federal Government, this would let the Federal Government pay all of the cost, instead of the States paying 20 percent, plus the fact that we would lose the State inspector versus the Federal inspector issue.

The issue is now under debate in a number of States. The legislatures from these States have informed the committee, during the hearings, that if they do not get the 80–20 percentage for the Federal meat inspection they are going to turn it over to the Federal Government and let the Federal Government run the whole thing.

California has notified the committee that if the funding formula is not changed the State will not be able to continue its meat inspection program beyond fiscal year 1972. Similar public comments have been made by the directors of agriculture in Washington and Wisconsin.

The Meat Inspection Advisory Committee, which is composed of representatives of State departments of agriculture, recently passed a resolution supporting an increase in Federal funding to not less than 80 percent of the cost of State inspection programs.

We are quite confident that on an 80–20 funding basis most States will continue their programs, and we are equally confident that there will be a rapid decline in the number of State inspection programs under the present 50–50 ratio.

On the basis of 44 "equal to" States, total State inspection costs during fiscal year 1972 are estimated—now, get this—total State inspection costs during fiscal year 1972 are estimated at $53.2 million.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAYNE. I yield 2 additional minutes to the gentleman from Texas.

Mr. PRICE of Texas. Mr. Chairman, the Federal share of this, under the 50–50 formula, will be $26.6 million. Under the proposed 80–20 formula, Federal costs would be $42.6 million—an increase of $16 million, but considerably less than the cost of 100-percent funding that will be required if States begin to terminate their inspection programs.

The Federal Meat Inspection Act clearly indicates that it was the intent of Congress to give the States an opportunity to protect the consumer in that portion of the meat supply producing plants operating in interstate commerce. Only if the States failed to act was the Federal Government to step in and assume direct responsibility for inspection.

We wholeheartedly agree with this

State-Federal partnership approach, because it encourages local incentive and decentralizes decisionmaking and discourages growth to unmanageable proportion of the Federal Establishment.

The Office of Management and Budget advises us that there is no objection to this legislation; the Department of Agriculture has no objection to it. The committee in the House of Representatives estimates in the fiscal year 1973, 80 percent of the cost of meat inspection would exceed 50 percent of such cost by $17.3 million.

And so I think that we cannot allow vital programs like this to fall by the wayside or allow improperly inspected meats to reach the marketplace, nor can we afford to allow the Amalgamated Meat Cutters and the unions throughout the United States and the large packers to squeeze the middleman in the rural communities of America celar out of the meat business, as they are trying to do, and completely organize the meat industry throughout every one of these States. That is exactly what will be done if we do not pass this bill.

Of course, the strongest opposition to the measure is coming from the Meat Cutters Union Lobby, which is working to unionize small packing operations—a move which would virtually put the small operator out of business. The unions do not want stronger Federal and State inspection of the product they are processing, and I regard this as a hazard to the health of the consumer.

Mr. MAYNE. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. FINDLEY) a member of the committee.

Mr. FINDLEY. Mr. Chairman, the points at issue in this proposal, I think, have been ably covered by previous speakers. Only one aspect perhaps has been left somewhat muddied, and when I have finished speaking, it may remain just that way. That is the attitude of the administration.

When the bill was first considered in the committee, the administration sent a letter to the committee indicating its support for the bill if—the "if" was a big one—if a provision was added to the bill which would permit State-inspected meat to move freely in interstate commerce.

This was based on the assumption that State-inspected meat is indeed equal to federally inspected meat. The simple, bare fact is that State inspection is not always equal to Federal inspection. That is a general proposition that can be established in many States. There are exceptions, but generally that is true.

As that fact became more evident during the committee's considerations, the support for such an amendment as requested by the administration waned. So I think the only conclusion we can reach at this moment is that the administration does not support the legislation now before us.

That is the latest written expression on the part of the administration.

The Federal Government, in passing the Wholesome Meat Act of 1967, encouraged States to develop and improve meat inspection systems by providing 50 percent of the funds to cover costs.

When this bill was passed, Congress was speaking clearly for the Nation's consumers who demanded, and deserve, wholesome meat.

The cost-sharing provision of the act was so designed to encourage the upgrading of State programs without infringing on the State's right to conduct their own meat inspection systems.

If this bill is approved, we will be moving very close to complete financial takeover of all the States' systems, a situation we tried to avoid with the Wholesome Meat Act. With financial takeover, close Federal regulation and control certainly will follow.

Federally run meat inspection systems in States not wishing to conduct their own programs is essential. The mandate for closely inspected meat is clear. But the decision on who will conduct meat inspection clearly is in the hands of the State legislatures. If States wish to continue meat inspection programs on a basis "equal to" Federal standards, they presently must be willing to provide half the needed funds. I am confident many will continue this course.

Those not willing to provide the funds will, by default, allow Federal takeover on a piecemeal basis. Obviously, State meat inspection is not high on their list of priorities.

States are not the only governments which suffer from extreme budgetary difficulties. In fact, no State is in a budgetary hole as deep as that of the Federal Government.

I am not advocating a complete Federal takeover of all meat inspection programs in the country. But I do believe a Federal takeover of the programs in those States not providing half the funding is preferred to a de facto takeover of the programs in all the States, a situation that would occur under the 80-percent Federal funding proposed in this bill.

This bill should be rejected.

Mr. HALL. Will the gentleman yield?

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

Mr. HALL. Would the gentleman be willing to say that whether it is meat inspected by the Federal Government or by the States, it is all better than the meat that is being imported, including uncooked from Mexico?

Mr. FINDLEY. The U.S. Department of Agriculture has been expanding its system of surveillance of inspection and examination at the ports of entry of meat coming in from abroad. I would say that probably the standards imposed by most States of the Union are superior to the standards imposed by most foreign countries exporting to the United States, but I also ought to acknowledge that just as there has been dramatic improvement in State inspection as well as Federal inspection in the last few years, there has been an equally dramatic improvement in the quality of inspection of imported meats. This is also going forward rather substantially.

Mr. HALL. I appreciate the gentleman yielding and I appreciate his comments.

I happen to know about the 17 overseas inspection stations of our veterinarians of the Federal Government and the 37 at our coastal ports of entry, but the fact of the matter is that much meat comes in that is uninspected or unstamped before distribution, or is accepted on the basis that it was inspected by "equal to" and approved inspections of the other sovereign nation prior to its departure. We have long since gotten away from shipping it in here as only third-grade meat sealed in hermetic containers for use and processing in other than food consumption in this Nation. I imagine that a lot of this money should be spent on improving and marking imported meats rather than on what we are doing.

Mr. FINDLEY. I think there is room for improvement in the surveillance of the quality of imported meats, but nevertheless it leaves the point that I made earlier still valid.

Mr. HALL. I agree, and thank the gentleman, my friend from Illinois.

Mr. SISK. Mr. Chairman, I yield 3 minutes to the distinguished chairman of our subcommittee, the gentleman from Texas (Mr. PURCELL).

Mr. PURCELL. Mr. Chairman, a great deal has already been said about the merits and demerits of this bill. I am privileged to be the chairman of the subcommittee that this bill came out of, and I do not think this bill is necessary.

The Meat Inspection Act that we amended here passed in 1967 and it has made great strides forward. At that time the States were brought into the act by their having to put up 50 percent of the cost of their inspection programs. Now a few years later we see them coming back and wanting added money, and as several speakers have pointed out, it just will lead to 100 percent Federal expenditure with the States deciding how they will spend the money. I think that is a correct observation.

This is a legitimate difference of opinion. There is not a good argument that can be made, I think, as to whether State inspectors are better than Federal inspectors. To me this is not really the main point that should be made. We do have generally very, very good inspection laws in our States and in our Federal Government, but it should be observed, I believe, by anyone who has studied this matter that the States have not kept up with the Federal Government and it will take another few years in order to know whether the State programs are truly equal in reality to what they are certified to be or whether they are only equal on paper.

We have only had this law a few years. There is a matter of detailed training to get adequate inspectors. The States are working diligently toward that end. To have them come back now and say after only a very few years of operating under this act that we want more and more Federal money for doing the same thing that we agreed to do for 50 percent of the money a few years ago to me is not a realistic request.

So I will just say, without belaboring the point, that we do not need this bill. I think we can either put it under a true participation basis on a 50–50 basis or else we could say that it is absolutely up to the States and that is all that is required.

The States are coming to us, saying

they are short of money. The U.S. Government is short of money. We are not any more able to furnish money to the States than they are to furnish it for themselves, and many are much more able to raise money for this than the Federal Government is.

So I would just hope that this bill is not approved.

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

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

Mr. HUNGATE. Mr. Chairman, I would ask the gentleman from Texas under the 50–50 program that now exists, or under the 80–20 program as proposed in this bill, who hires the inspectors? The State or the Federal Government?

Mr. PURCELL. Under the State inspection program the States hire the people; they train them to meet certain minimum criteria, and they are paid 50 percent with Federal money and 50 percent with State money, but the State hires them.

Mr. HUNGATE. Is the gentleman aware of any program for the States to pay 80 percent where the Federal Government selects the employees?

Mr. PURCELL. I am not aware of any such program and I believe that certainly it is a pretty safe statement to say that there is no such inspection program in any State.

Mr. HUNGATE. I thank the gentleman.

Mr. MAYNE. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. SEBELIUS) a member of the committee.

Mr. SEBELIUS. Mr. Chairman, I would like to express my support for an increase from 50 to 80 percent in the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State.

Since late 1967, when the Federal Meat Inspection Act was amended by the Wholesome Meat Act, some 47 States have developed meat and/or poultry inspection programs equal to the Federal program. Many States had inadequate meat inspection programs 4 years ago. That they have been able to develop effective inspection programs in such a short period of time is a remarkable achievement. Most important, this was accomplished at considerable expense to the States involved and clearly demonstrates their commitment to the partnership approach.

Unfortunately, the Wholesome Meat Act provides no incentive for States to continue their meat inspection programs. In fact, it provides a financial disincentive. A State must now bear 50 percent of the cost of carrying out its meat inspection program. Many State government officials are asking why it should be necessary for State governments to pay 50 percent of inspections costs when the Federal Government makes all the rules and regulations. With the financial bind prevalent in State government everywhere, many Governors and legislatures are contemplating simply turning the program over to the Federal Government and withdrawing all financial support. This has already occurred in 20 States and territories.

I feel we have a unique opportunity to recognize State contribution and to eliminate another costly Federal takeover by passing S. 1316, to fund State meat and poultry inspection programs on an 80–20, Federal-State, cost-sharing basis. I am quite confident that on an 80–20 funding basis most States will continue their programs. I am equally certain that there will be a rapid decline in the number of State inspection programs under the 50–50 ratio. In other words, this legislation would reduce the burdensome costs of a Federal takeover and would maintain the Federal Government's commitment to the partnership that was established when the State inspection program was enacted.

Just as important, it is apparent inspection programs can be administered much more economically and efficiently from the State level than from Washington. Because of geographical location, State officials usually have a better firsthand acquaintance with people and the local situation. They are more accessible when it comes to problem solving than are Federal officials. In most cases, the small operator's very survival may depend on enactment of this bill.

My district lost about half of its locker plants after the passing of the 1967 act. I do not want to lose the balance of them because of their unwillingness or inability to shift to Federal inspection.

I wholeheartedly endorse the 80–20 Federal-State, cost-sharing approach for State meat inspection programs and ask my colleagues to support S. 1316.

Mr. SISK. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, if we really had equal protection under a State and the Federal inspection system, then the only real question is Who writes the check for the inspectors? It will take the same number of inspections to do the same job.

There is a very bad provision in this bill which was referred to previously and I will not refer to that again regarding preventing States from going further than the Federal protection in any area.

But I want to cover briefly some other points. I want to say first of all that I am one who believes that the Federal Government cannot cover all jurisdiction in the inspection field. That is one reason why in 1962 I was the author on the House side of a bill to encourage the States to improve their inspection systems; that bill provided methods whereby we would help the States to train inspectors.

That bill was almost unused until 1967 when the hot air started blowing down their back and they decided they would use it. Then we passed the 1967 law, and it gave them 5 years to comply with the law. That 1967 took Federal jurisdiction down as far as the retail level.

The real question here is, What jurisdiction do we leave to the Federal inspectors and what to the State inspectors? In the 1967 act, we clearly left the retail level of inspection to the State inspectors.

But in the case of certain small slaughtering plants it can be one or the other.

It has been 5 years since this law was passed and the States generally do a very, very inadequate job if anything at all on the retail level.

So the point is if a State needs this other 30 percent provided in this bill in order to inspect some of the small slaughtering plants, they certainly need the other 20 percent they are going to use in order to do a job on the retail level. If they are that hard up, they need all the money they now use on slaughtering plants and should let the Federal inspectors inspect the small plants.

If every State is spending less now than it would cost the Federal Government, then they must be paying less for inspectors and in general this means they cannot pass the Federal test so as to get a better job as a Federal inspector. And traditionally this is true. State inspectors have traditionally been mostly political hacks. They have been upgraded to some extent lately—but most of the ones who are good enough to pass the Federal tests go down and take the Federal test and they get a Federal job. They do not stay in the State inspection system. This means that the States are constantly dealing from the bottom of the barrel.

Some of the States have had schools to train them and some of them do a pretty good job—and then they go over to the Federal side and the States are constantly trying to recruit somebody to take their place.

The trouble is that some of the smaller plants are being harassed. These inadequate State inspectors do not know for sure what the man should do to straighten up the plant and they are afraid to tell him for fear they will be found to be wrong, so they will not tell him. And some time later the Federal inspector comes along and tells him what needs to be done. In the meantime, perhaps another State inspector also came along and gave him a different decision. Because they are not sure of themselves in the main, many State inspectors are not willing, therefore, to say exactly what needs to be done and these small plant operators are not being given an opportunity to know precisely what needs to be done so that they can go ahead and do it. They are entitled to know positively what is necessary to come up to adequate standards.

So what we find here is that the local plants themselves are better off when they have Federal inspection because then the Federal inspector comes and in the first instance he tells them precisely what needs to be done in order to comply. In that case, they do not have this harassment that comes about as a result of the State inspectors coming and telling them one thing and then the Federal inspector coming later and telling them something else.

For the sake of better inspection of meat, should we not want to work against the trend underway which encourages the States to do a better job at the retail level and leave the slaughter houses to Federal jurisdiction. This bill is de-

signed to encourage those with inadequate funds to stay in the area where they do not need to be rather than moving into more adequate retail inspection.

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

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. KAZEN. I hope that the gentleman is not making a blanket reference to every State in the Union in his remarks just made?

Mr. SMITH of Iowa. All you have to do is look at the salary scales of any State and you can see that the salary scales are lower than the Federal salaries. Obviously, if a man can pass the Federal test, he is going to take a job there and he can do that without even leaving the State. So why would he not do it? In general, most Federal inspectors are better qualified than the State inspectors. When a State inspector becomes qualified, he will take the test and become a Federal inspector.

Mr. KAZEN. Not necessarily—not necessarily.

I am calling the gentleman's attention to the fact that just this last Sunday I visited our State Inspector School that is located in my district in the city of Yoakum. I was very impressed with their building and laboratories and their instructors and the type of training they are giving the State inspectors. It is one of the finest schools in the country. And I venture to say that within the next 3 or 4 months the gentleman will find out that the inspection that is being done by these now professionally trained inspectors is just as good as the Federal employees will do anywhere in the country.

Mr. SMITH of Iowa. If they would expend that expertise, whatever it is, inspecting on the retail level, they would do the people of Texas a lot more good.

Mr. MAYNE. I have no further request for time, Mr. Chairman.

Mr. SISK. Mr. Chairman, I do not have further requests for time.

I simply take this opportunity to make a couple of quick comments. There have been questions raised about cost, and so on. The facts are, of course, in connection with costs, that if we do not make this change in ratio to the 80–20, in most cases I would say, we will probably wind up with all of the States simply dumping the situation back in Federal hands and the Federal Government will pay 100 percent. There is no rationale whatsoever for the fact that there is going to be any saving by retaining the so-called 50–50. The States simply are not able to meet that 50–50 requirement.

I might say that there have been a number of other points raised that I think we could very well discuss. However, at this time, Mr. Chairman, I have no further requests for time and I yield to the gentleman from Iowa.

Mr. MAYNE. Mr. Chairman, I do have a further request for time. I yield 4 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I want to make some observations relative to this bill and amendment under consideration. In the State of Minnesota I am frank to admit that we did not move out as fast as we should have on State inspection. As a result, under the Federal law the Federal people moved in. I want to say that some of the action that has been taken by Federal inspectors has been most devastating. I stopped in a small town, Elysian, Minn., and there I found a little country store that had a little shop in their back room where they slaughtered for the farmers and froze the meat and packaged it. A Federal inspector came in there and started making demands, and finally, unfortunately, the owner of the store asked the inspector to leave.

The inspector said, "I will not be back, but you are closed up as of now." Farm folks will then have to go back to slaughtering their own meat and another small industry goes down the drain.

I stopped down at Waldorf, Minn., at a nice little plant that had been redone as requested and every attempt had been made to meet all of the standards. After everything had been done, the owner was told:

> You have got to have a stainless steel meat mixer here. A very expensive piece of equipment.

Then the sausage stuffer was not stainless steel. That had to be stainless steel, another extremely expensive piece of equipment. The profits in this little place would not make it possible for him to be able to meet the cost that the Federal inspectors demands would require.

My friends, I just want to say that if there is anything in this bill that is going to make it possible for the States to do a better job and to employ the personnel, I would be for it—and I am going to vote for this amendment and the bill. I want to say that the Federal Government has demanded of the States personnel in numbers that exceed the number of men that they have put in the States, so it seems that we have two sets of rules.

I just feel that we have learned a lot with OSHA; we have learned a lot with this meat inspection; and I think the Committee on Agriculture came out with a good bill to start with that was amended on the floor, and some of us who supported the committee were accused of being in favor of dirty meat. However, I want to say that some of the things that have gone wrong have gone so far that rural America cannot survive with some of the rules and regulations that some of these Federal boys exact upon the small towns of America.

I think all of us who talk about the family farm and who talk about small towns and who talk about rural America need to look at some of the rules and regulations and strongarm methods that destroy rural America.

Mr. Chairman, I hope this bill passes.

Mr. GUBSER. Mr. Chairman, I favor passage of S. 1316. This bill would provide 80-percent funding of meat inspection by the Federal Government for those States with a system which is at least equal to the Federal system. California, with a system which is recognized as a leader in the Nation virtually needs this assistance to maintain its excellent program. It is in the best interests of the consuming public that this superior inspection system, after which the National Meat Inspection Act was patterned, be preserved.

Decentralization of the meat inspection program through competent State agencies is the most effective way of making the consumer protection aspects of the Wholesome Meat Act a reality for all Americans. Without this bill, a burden of funding State meat inspection programs will be placed on the Federal Government in entirety as States relegate their responsibility for the program to the Federal Government.

This bill insures protection of the consumer; it has the advantage of assisting the meatpacking industry through decentralized administration; it will financially assist State governments; and, it will prevent the necessity of the Federal Government having to eventually take over 100 percent of the cost.

This bill should pass overwhelmingly.

Mr. MAYNE. Mr. Chairman, I have no further requests for time.

Mr. SISK. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of paragraph (3) of section 301 (a) of the Federal Meat Inspection Act, as amended (21 U.S.C. 661(a)(3)), is amended by striking out "50 per centum" and inserting in lieu thereof "80 per centum".

AMENDMENT OFFERED BY MR. KYL

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

The Clerk read as follows:

Amendment offered by Mr. KYL: Page 1, line 6, at the end thereof insert the following: "If a State meat inspection plan has been approved by the Secretary pursuant to the provisions of this Act, Federal inspectors shall report results of their inspections of State-regulated plants directly to the State administrative agency and shall not issue any directives or orders, either written or oral, to the operators of the plants so inspected."

PARLIAMENTARY INQUIRY

Mr. MAYNE. Mr. Chairman, a parliamentary inquiry.

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

Mr. MAYNE. Mr. Chairman, I believe there are several committee amendments. Would they not be in order first and then the amendment of the gentleman from Iowa be out of order unless deferred until after the committee amendment has been disposed of?

The CHAIRMAN. The amendment offered by the gentleman from Iowa is to section 1 and it is thus in order at this point.

The gentleman from Iowa is recognized.

Mr. KYL. Mr. Chairman, under the basic Meat Inspection Act the States were given a prerogative. They could establish a State inspection system equal to the Federal standard with approval given to the system by the Secretary, or they could turn the inspection within their State over to the Federal inspection system. In other words they had a choice.

As the gentleman from Washington

said, there is absolutely nothing in the basic law which says that there shall be a difference in the quality between the two acts, that all regulations would be the same. The regulations are as strict under a State-approved program as they are under a Federal program. That is the law.

So under that basic act many of the States decided to have their own inspection systems with 50-percent Federal funding. They had a choice, one or the other.

But it does not work that way, what we have now where we have a State-approved system is at minimum, a dual system. Each one of the plants is inspected by the State officials, each one of these plants is inspected by the Federal officials, and sometimes the thing is almost carried to absurdites. In one case, in a small plant in my district, an operator was first inspected by a State inspector, then by a Federal inspector, and then by a gentleman from the Inspector General's Office. On the fourth day he was visited by a person from the General Accounting Office trying to find out if the act was being administered according to law. We have obvious duplication in this system.

If this State system is equal to the Federal, why do we need two systems? It is the State system which should be inpected by the Federal official. Otherwise we have two duplicative systems and two costs. And when the State and Federal men both deal directly with the individual operator, he cannot serve both masters if their decisions are different.

It does amount to harassment when this individual is forced on successive days or weeks or months to try to operate according to different interpretations of the law.

What this amendment does is this. If the State has an approved system, then the Federal inspector who inspects a plant under that system reports his findings to the State agency. He does not give directives to the operator of that plant. That Federal inspector's job is to see that the State law is being enforced in a manner equal to the Federal law. That is all there is to it. It is absolutely reasonable.

I want to call attention to the fact that we get a similar situation each time we pass a law of regulation in any field.

Many States are experiencing the same thing with their OSHA laws, where instead of having to please one system or the other, you have at least two systems. I think all the logic is in favor of having one system if that be the choice, Federal or State, but the duplication and harassing does not cause any better inspection of that individual plant.

This amendment ought to be adopted.

Mr. FOLEY. Mr. Chairman, I rise in opposition to this amendment.

As I understand the amendment, it would place the Federal meat inspecting system of the State under the jurisdiction of the State meat inspection system.

Mr. KYL. No.

Mr. FOLEY. I ask the gentleman a question: If you have a plant that is in interstate commerce, that must under law be Federally inspected, and the State meat inspection system also exists, they choose to inspect or reinspect that interstate plant under State law——

Mr. KYL. This amendment, if the gentleman would yield, concerns only those plants which are under the State plan, under the administration of the State authority and not under the Federal.

Mr. FOLEY. Is the gentleman not proposing that interstate plants would be subject to State meat inspection?

Mr. KYL. No, the amendment does not propose that the State would move into any area of inspection in addition to what they have at this point, of course.

Mr. FOLEY. Is the content of this amendment specifically to exclude all plants required to be Federally inspected under law?

Mr. KYL. Absolutely.

Mr. FOLEY. Does the purpose of this amendment exclude reports by Federal meat inspectors of State-inspected plants to the U.S. Department of Agriculture?

Mr. KYL. If the gentleman will yield, I will read the exact language:

> If a State meat inspection plan has been approved by the Secretary pursuant to the provisions of this Act, Federal inspectors shall report results of their inspections of State-regulated plants directly to the State administrative agency and shall not issue any directives or orders, either written or oral, to the operators of the plants so inspected.

It does not reduce the Federal jurisdiction. It simply says that if a State has made the option of operating a State plant, it may have State inspection; not Federal plus State plus GAO plus IGA and so forth and so on.

Mr. FOLEY. As I recall, the 1967 act permitted a Secretary to order the immediate closing of any plant inspected by the State which was an imminent danger to health. Would this amendment prohibit that, permit immediate action by the Federal inspector to close such plants?

Mr. KYL. If the gentleman will yield, if there is a plant which is subject to State inspection and not subject to Federal inspection because of any interstate character, the Federal inspector would not be able to close that plant by giving a directive to the operator of that plant.

He can go to the State agency which has charge of the State meat inspection system and file his complaint there.

Mr. FOLEY. I thank the gentleman. I think this is one of the problems which I am glad the gentleman clarified.

I think one of the problems with his amendment is the 1967 act, which, to my recollection, permits the immediate closure of any plant the Secretary or his employees determines is an imminent hazard to health.

Under the gentleman's amendment, the only way to do that, if the State refused to close the plant, would be to decertify the entire State. I think that is a very cumbersome and unnecessarily circuitous way to reach this problem.

Mr. SMITH of Iowa. Will the gentleman yield?

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

Mr. SMITH of Iowa. And to decertify, the State takes months.

Mr. FOLEY. Yes.

Mr. SMITH of Iowa. So, if there were a plant presented in imminent danger to health, they would be unable to close it. As a matter of fact, if the State wanted to relax the requirements for all plants, it might be 6 months, so the people of that State would not have any products.

Mr. FOLEY. I believe the result of this amendment would be to remove a vital protection of the 1967 Meat Inspection Act, to insure that no plant which is felt to present an immediate hazard to health remains in operation.

Mr. MIZELL. Mr. Chairman, will the gentleman yield briefly?

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

Mr. MIZELL. I know the gentleman in the well is well versed as to what are the requirements now, before a State even can be authorized to have an inspection. Is it not required that the State have at least as stringent a requirement as the Federal Government?

Mr. FOLEY. Technically, yes. I do not believe that has been the result.

If the gentleman wants to press me for my opinion, I must admit to great skepticism that many, if any, States reflect the standards set by the Congress.

The Department has admitted in public testimony that in their certifications of State meat inspection systems they have been "tolerant" of the standards of meat inspection. The word is "tolerant."

There is presently a General Accounting Office audit to determine if, in fact, those State systems have come up to an equal standard. The technical fact is that the Department has certified them as such. Some of us have great doubt that was done properly.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

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

Mr. SMITH of Iowa. The point is that even if they were actually up to the Federal standards there would be no way of keeping them there unless there were the right to a spot check and the right to close the plant.

Mr. FOLEY. It is necessary to have a right to make a spot check and a right to close down the plant when there is an imminent danger to health. They might have some diseased meat. Anthrax, for example, could cause death.

Mr. MIZELL. Mr. Chairman, I rise in support of this amendment. I take this time merely to ask the gentleman from Iowa (Mr. KYL) a couple of questions, so that we might better understand his amendment.

Is it the intent of the amendment to permit Federal inspection by the Federal inspectors but, if they find that the plant is not up to the Federal requirement, that they would file their complaints with the State agency which has jurisdiction over those particular plants?

Mr. KYL. Absolutely. If there is anything wrong with that plant, such as having anthrax and all these other horrible things mentioned, I can assure the gentleman the State could close that plant as quickly as it had to be closed.

Why have a State inspection system if we also have a Federal system at the

same time? This is ridiculous. This means funding two systems, not one.

If the State has a choice, and has a system which is equal, why is that not sufficient?

The gentleman from Washington surprises me. Only a few moments ago he said there was nothing in the law which permitted a State act or State regulation to be anything less than the Federal. Now he comes here saying, "Well, the State system is not as good as the Federal."

If it is not that good, the plant should not be approved in the first place. This does not preclude the Federal inspection to see that the State system is up to standard. They can do that. But it would stop the harassment which occurs daily throughout the country, where the State inspector says, "Put soap on your floor," and the Federal man comes in and says, "Put powder on your floor." That is what goes on every day.

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

Mr. MIZELL. I yield to the gentleman from Washington.

Mr. FOLEY. I should like to address a question to the gentleman from Iowa. Since the gentleman mentioned my name I want to clear up my statement. I hope the gentleman understands I am profoundly suspicious of the official designations that have been made by the Department of Agriculture. The gentleman may remember, in addition to the General Accounting Office audit, we have not been able in the Committee on Agriculture to receive from the Department, even with the Freedom of Information Act, the specific State reviews made by that Department. They have had to be the subject of a court order, to obtain those reviews. I suggest the reason is the Department is afraid that a public audit of its actions in certifying State systems would show in fact there was not an adequate basis to show that they were certified as equal.

Mr. KYL. Will the gentleman yield?

Mr. MIZELL. Yes, I yield to the gentleman.

Mr. KYL. If this situation is true, then we ought to be here changing the act in respects other than the ones we are changing.

In the absence of delineation of any of these facts which the gentleman alleges, we cannot make any decision on that at this point.

Mr. FOLEY. Will the gentleman yield?

Mr. MIZELL. I yield to the gentleman.

Mr. FOLEY. I would just like to point out that is exactly right, Mr. Chairman. We should not be attempting to legislate in this sensitive area until the audit of the General Accounting Office as such is available to us, and it ought to be available in March or April of next year. We do not know, if we are acting on the gentleman's amendment, if it is at the risk of the State's system because we do not know exactly what their attitude is.

Mr. MIZELL. Mr. Chairman, I would like to say to my colleagues, I understand the amendment offered by the gentleman from Iowa, and I think it is a good amendment. I think it will eliminate the double harassment of the owners of these plants within the States.

If the Federal inspector has any question about whether they come up to the standards or not, he has a perfect right to go in and inspect the plant and then to file his complaint with the State. The State, in turn, would be required to follow through and make sure the plant meets all the requirements. This would eliminate most of the confusion.

Mr. KYL. Will the gentleman yield?

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

Mr. KYL. I will point out for the RECORD that this amendment which I have offered does not supersede or impair title IV or any authority of the State to prohibit or enjoin the distribution of unwholesome meat. It does not go to that point whatsoever.

Mr. SISK. I move to strike the last word.

The CHAIRMAN. The gentleman is recognized.

Mr. SISK. Mr. Chairman, I do not find a great deal to be concerned about in connection with this amendment. However, representing the committee, I, of course, could not accept this amendment on behalf of the committee.

Frankly, this legislation originated for one purpose, and one only, and that is evident from the fact the other body has passed this legislation, and the only provision in it has to do with the fact that it changed the ratio from 50–50 to 80–20 in connection with the costs.

My only concern here tonight at this late hour is, of course, to the extent we might attempt to load this down with additional amendments and thereby endanger the final approval of the legislation.

Mr. Chairman, I would ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. KYL).

The question was taken; and the chairman being in doubt, the committee divided, and there were—ayes 60, noes 37.

TELLER VOTE WITH CLERKS

Mr. FOLEY. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. FOLEY. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the chairman appointed as tellers Messrs. KYL, SMITH of Iowa, FOLEY, and MIZELL.

The Committee divided, and the tellers reported that there were—ayes 188, noes 149, not voting 93, as follows:

[Roll No. 409]

[Recorded Teller Vote]

AYES—188

Abbitt	Brown, Mich.	Clausen, Don H.
Anderson, Tenn.	Brown, Ohio	Clawson, Del
Andrews, N. Dak.	Broyhill, N.C.	Collier
Archer	Buchanan	Collins, Tex.
Arends	Burke, Fla.	Colmer
Ashbrook	Burleson, Tex.	Conable
Baker	Byrnes, Wis.	Conover
Belcher	Cabell	Coughlin
Bennett	Caffery	Crane
Betts	Camp	Daniel, Va.
Blackburn	Carlson	Davis, Ga.
Bray	Carter	Davis, Wis.
Brinkley	Casey, Tex.	Dellenback
Broomfield	Cederberg	Dennis
Brotzman	Chamberlain	Derwinski
	Chappell	Dickinson
	Clancy	
Dorn	Landgrebe	Scott
Downing	Latta	Sebelius
Duncan	Leggett	Shipley
du Pont	Long, La.	Shoup
Edwards, Ala.	McClory	Shriver
Erlenborn	McCloskey	Sikes
Esch	McCollister	Skubitz
Eshleman	McDade	Smith, Calif.
Findley	McKevitt	Smith, N.Y.
Fish	McKinney	Snyder
Fisher	Mailliard	Spence
Flowers	Mallary	Stanton, J. William
Flynt	Mann	Steiger, Ariz.
Ford, Gerald R.	Martin	Steiger, Wis.
Forsythe	Mathis, Ga.	Stephens
Fountain	Mayne	Stratton
Frelinghuysen	Michel	Stubblefield
Frenzel	Miller, Ohio	Stuckey
Frey	Mills, Md.	Talcott
Fuqua	Minshall	Teague, Tex.
Goldwater	Mizell	Terry
Gonzalez	Montgomery	Thompson, Ga.
Goodling	Morgan	Thone
Griffin	Myers	Ullman
Grover	Nelsen	Vander Jagt
Gubser	Passman	Veysey
Haley	Patten	Waggonner
Hall	Pelly	Wampler
Hammer-schmidt	Pickle	Ware
Hansen, Idaho	Pirnie	Whalen
Harsha	Powell	Whalley
Harvey	Price, Tex.	White
Heinz	Quie	Whitehurst
Henderson	Quillen	Widnall
Hillis	Randall	Wiggins
Hogan	Rarick	Williams
Horton	Roberts	Wilson, Bob
Hosmer	Robison, N.Y.	Winn
Hungate	Rogers	Wyatt
Hunt	Rooney, Pa.	Wyman
Hutchinson	Rousselot	Yatron
Ichord	Roy	Young, Fla.
Jarman	Ruppe	Young, Tex.
Johnson, Pa.	Ruth	Zion
Jones, N.C.	Sandman	Zwach
Kazen	Satterfield	
Kyl	Saylor	
	Schneebeli	

NOES—149

Abzug	Foley	Natcher
Adams	Ford, William D.	Nedzi
Addabbo	Fraser	Nix
Alexander	Garmatz	Obey
Anderson, Calif.	Gaydos	O'Hara
Anderson, Ill.	Gibbons	Perkins
Andrews, Ala.	Grasso	Pettis
Ashley	Green, Pa.	Pike
Aspin	Gude	Poage
Badillo	Hamilton	Podell
Barrett	Hansen, Wash.	Preyer, N.C.
Begich	Harrington	Price, Ill.
Bergland	Hathaway	Pryor, Ark.
Biaggi	Hays	Purcell
Biester	Hechler, W. Va.	Railsback
Bingham	Heckler, Mass.	Rangel
Boggs	Helstoski	Rees
Boland	Hicks, Mass.	Reuss
Bolling	Hicks, Wash.	Rodino
Brademas	Holifield	Roe
Brasco	Howard	Rosenthal
Brooks	Hull	Rostenkowski
Burke, Mass.	Jacobs	Roush
Burlison, Mo.	Johnson, Calif.	Roybal
Burton	Jones, Tenn.	St Germain
Byrne, Pa.	Karth	Sarbanes
Carey, N.Y.	Kastenmeier	Scheuer
Carney	Keating	Seiberling
Chisholm	Kee	Sisk
Cleveland	Kemp	Slack
Collins, Ill.	Kluczynski	Smith, Iowa
Conte	Landrum	Staggers
Conyers	Lent	Stanton, James V.
Corman	Link	Steele
Cotter	Long, Md.	Stokes
Curlin	McFall	Sullivan
Daniels, N.J.	Madden	Taylor
Danielson	Mahon	Tiernan
Dellums	Matsunaga	Udall
Denholm	Mazzoli	Van Deerlin
Dent	Meeds	Vanik
Dingell	Melcher	Vigorito
Donohue	Metcalfe	Waldie
Dow	Mikva	Whitten
Drinan	Mills, Ark.	Wilson, Charles H.
Dulski	Minish	Wolff
Eckhardt	Mink	Wydler
Edwards, Calif.	Mitchell	Yates
Fascell	Monagan	Zablocki
Flood	Moorhead	

NOT VOTING—93

Abernethy	Aspinall	Bevill
Abourezk	Baring	Blanton
Annunzio	Bell	Blatnik

Bow	Hanley	Moss
Broyhill, Va.	Hanna	Murphy, Ill.
Byron	Hastings	Murphy, N.Y.
Celler	Hawkins	Nichols
Clark	Hébert	O'Konski
Clay	Jonas	O'Neill
Culver	Jones, Ala.	Patman
Davis, S.C.	Keith	Pepper
de la Garza	King	Peyser
Delaney	Koch	Pucinski
Devine	Kuykendall	Reid
Diggs	Kyros	Rhodes
Dowdy	Lennon	Riegle
Dwyer	Lloyd	Robinson, Va.
Edmondson	Lujan	Roncalio
Eilberg	McClure	Rooney, N.Y.
Evans, Colo.	McCormack	Runnels
Evins, Tenn.	McCulloch	Scherle
Fulton	McDonald,	Schmitz
Galifianakis	Mich.	Schwengel
Gallagher	McEwen	Springer
Gettys	McKay	Steed
Giaimo	McMillan	Symington
Gray	Macdonald,	Teague, Calif.
Green, Oreg.	Mass.	Thompson, N.J.
Griffiths	Mathias, Calif.	Thomson, Wis.
Gross	Miller, Calif.	Wright
Hagan	Mollohan	Wylie
Halpern	Mosher	

So the amendment was agreed to.

COMMITTEE AMENDMENT

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

The Clerk read as follows:

Committee amendment: Page 1, line 6, insert the following new section:

SEC. 2. Section 301(a)(3) of the Federal Meat Inspection Act, as amended (21 U.S.C. 661(a)(3), is further amended by inserting after the last sentence thereof the following:

"The Secretary shall withhold funds and other assistance under any cooperative agreement entered into under this section with any State agency when he determines that the State has imposed any requirements in addition to or different than those made under this Act relating to marking, labeling, or packaging of federally inspected carcasses, parts thereof, meat or meat food products."

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. ABBITT

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

The Clerk read as follows:

Amendment to the committee amendment offered by Mr. ABBITT: Page 2, line 11, strike the quotation marks and insert the following:

"No funds or assistance shall be made available under this Act if the Secretary applies the provisions of this Act requiring inspection of the slaughter of animals and the preparation of the carcasses, parts thereof, meat, and meat food products at establishments conducting such operations for commerce to the slaughtering by any person of animals of his own raising, and the preparation by him and the transportation in commerce of the carcasses, parts thereof, meat, and meat food products of such animals, which are sold directly by him to household consumers, restaurants, hotels, and boarding houses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers, with respect to the first $1,000 worth of such carcasses, parts, meat, and meat products sold by him in the period beginning on January 1 and ending at the close of December 31 in any calendar year."

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

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

Mr. CEDERBERG. Mr. Chairman, we in Michigan have an exhibit on the situation which we want to bring to the attention of the House. There is a display in the Speaker's lobby. I hope those who have not had an opportunity yet to look at the display will go to the Speaker's lobby, because I think they will give their support after they do. Please take the opportunity.

Mr. ABBITT. Mr. Chairman, the amendment is very simple and expressed in simple language. It attempts to take care of the small producer, the individual farmer. I would like to read the pertinent part of it in the hope that the Members will understand it. It exempts any person who slaughters animals that he raises himself, and the preparation by him and the transportation in commerce of the carcasses, parts thereof, meat and meat food products of such animals, which are sold directly by the producer to household consumers, restaurants, hotels, and boardinghouses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers, with respect to the first $1,000 from January 1 to December 31.

In other words, prior to the Meat Act of 4 years ago there were many individual farmers who cured their own hams, their own shoulders, and sold them to their neighbors, to their friends, and to hotels and restaurants. But now they can no longer do that.

This will provide that they can do it on sales up to $1,000 from January 1 to December 31. This goes to the protection of the small owner and small producer. I feel it is fair and just that this be done.

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

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

Mr. HUNT. I thank the gentleman for yielding.

Is the gentleman saying this amendment deals with specifically $1,000 of sales by a person during the course of 1 year? Supposing we have a small farmer and he is going to sell me ham. He prepares that for sale to me or to anybody else in a small locker, and as long as that does not exceed $1,000 we want to exempt it from this bill?

Mr. ABBITT. That is right. But in addition to that he has got to raise it himself and sell it himself. It is as tight as it can be. It provides that the producer who raises his own meat can sell it to the consumer.

Mr. HUNT. In other words $1,000 of what he raises on this farm he may sell without this restriction?

Mr. ABBITT. During the period January 1 to December 31.

Mr. HUNT. I thank the gentleman.

Mr. ABBITT. I think that is a brief explanation of it. I hope the Members will support the amendment.

Mr. STUBBLEFIELD. Mr. Chairman, I rise in support of this amendment.

As the gentleman from Minnesota and some others have said, if we are going to help rural America, this bill helps the individual farmer. I hope this amendment will be agreed to.

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

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

Mr. SISK. Mr. Chairman, as far as this Member is concerned I have no objection to this amendment. I cannot speak on behalf of the committee. As far as I am concerned I have no objection to the amendment.

Mr. Chairman, the occasion for our raising this question is that on every side wherever we go we observe notices at a great majority of all eating places stating that genuine country ham is included in their bill of fare. But is it really and truly genuine country ham that is being served at all these places or is it only an imitation of the genuine kind? Well, if one would give a truthful answer to this question it must be said in a great majority of cases it is only an imitation and not the genuine kind at all.

But what is a genuine country ham? We realize that we have not yet answered the question. It so happens that the U.S. Department of Agriculture gives the answer to the question. At stated times an inspector from the Department of Agriculture makes periodic visits to all firms and individuals that deal in cured hams. The first thing the inspector does when he visits an establishment is to show his Federal badge. Then he tells you what a genuine country ham is supposed to be. It is one killed and cured in the country.

There is a section in western Kentucky in which over a long period of time the farmers have specialized in the production of genuine country hams. Every ham called a country ham here is killed and cured in the country. It must not be supposed that it is an easy thing to make a genuine country ham. It is a job that requires patience, intelligence, and a lot of hard work. Nor is it something that can be done quickly. It requires the larger part of a whole year.

The farmer who would make these hams and would make them choice must understand a lot of things. He knows you have got to start with a good hog and it must be one of some age. You cannot make top grade country hams out of quick-grown pampered pigs. It just cannot be done. You have got to make the hams out of hogs that were killed in October, November, and December. You have got to know how to smoke them preferably with hickory wood, small cuts of green hickory with a lot of bark on it. No, it is not an easy thing to make choice country hams. There are a few of the things the farmer has to know. It is no wonder there are not enough of these hams made to supply the demand.

These hams have been shipped to people in all the States of America and into quite a number of foreign countries. It is no small thing as we see it to have had a major part in developing an article of food straight from the country that Irvin Cobb once spoke of as the most delicious morsel of food that has ever been discovered for human consumption. I urge adoption of the amendment.

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

Mr. Chairman, I would like to start by addressing a question to the gentleman from Virginia, who is the author of the amendment. Is it not true that this amendment incorporates substantially the terms of H.R. 9845 which was introduced by the gentleman from Virginia on July 15, 1971?

Mr. ABBITT. Yes.

Mr. MAYNE. With I believe the sole exception that in the bill the figure is $2,500, whereas in the amendment it has changed to $1,000.

Mr. ABBITT. That is correct.

Mr. MAYNE. I thank the gentleman for clarifying that point.

I would like to say to my colleagues that when these provisions were earlier presented and considered by the Committee on Agriculture, the Department of Agriculture did oppose these provisions. In a letter by J. Phil Campbell, Acting Secretary, on February 29, 1972, to the distinguished chairman of the committee, the Department recommended against these provisions and pointed out that it would really make meat available for human consumption without adequate safeguards as to any inspection whatsoever. I would like to read from the letter in which the Secretary opposed the same language which is now in this amendment:

> Section 1 of the bill would amend the exemption provisions in Section 23(a) of the Federal Meat Inspection Act to permit, under certain restrictions, uninspected meat and meat food products from animals raised and slaughtered by the owner of the animals to be sold to household consumers, restaurants, hotels and boarding houses. This exemption would be contrary to the intent of the Act since it would permit the sale to consumers of uninspected meat and meat food products. Also, since such animals would not be required to be inspected, there would be less assurance that meat and meat food products from dead, dying, disabled, and diseased animals would not enter food channels. Furthermore, although there is a restriction on the dollar amount of such products that would be exempted for any one person, it has been the experience of the Department in administering the Federal Meat Inspection Act that such exemptions are extremely difficult to enforce and lead to numerous violations contrary to the intent of the law.

I appeal to all persons in this House who are genuinely interested in the spirit of the Wholesome Meat Inspection Act passed in 1967, that they should unite to defeat this amendment. I feel that the passage of this amendment would greatly endanger passage of this very important bill on final passage.

The thing we want to do here, the thing that is urgently necessary, is to get the 80–20 provision passed here. That is what is greatly needed by the small, independent businessmen of this country, and the rural communities that must have these locker plants and other local facilities available. Their survival is questionable if we do not have approval of the final passage of the 80–20 provision.

I believe that this amendment will gravely endanger that final passage of the bill. Therefore, I appeal to the Members to vote in opposition to this amendment.

Mr. SMITH of Iowa. Will the gentleman yield?

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

Mr. SMITH of Iowa. As I understand the problem, some people are raising two or three hogs and selling the hams; but in fact, in order to take care of those people, which we could do by other methods, what will be done in this amendment is to permit the man to sell his healthy animals and take the ones which are so sick they cannot be sold and butcher them and sell them in parts.

The CHAIRMAN. The question is on the amendment to the committee amendment offered by the gentleman from Virginia (Mr. ABBITT).

The question was taken; and on a division (demanded by Mr. ABBITT) there were—ayes 53, noes 108.

Mr. DANIEL of Virginia. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the committee amendment was rejected.

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

Mr. Chairman, I should like to say to my colleagues I am as anxious to get out of here as I am sure all of them are. I would hope that we could move along expeditiously.

Let me quickly cite the situation in connection with the committee amendment I hold no particular candle for or against this particular Committee amendment. It was adopted in the subcommittee at the request of the administration. It was because of some problems, apparently, the Department is having in connection with the State of Michigan and possibly one other State, as to which lawsuits are pending. As I say, the subcommittee saw fit to adopt it It is an administration-sponsored amendment.

Frankly, I should like to conclude on this note. It in no wise affects ingredients. I have noted some interest in the display out here. The matter in connection with any exemption, in connection with ingredients, was eliminated from the amendment. The amendment itself goes only to the question of labeling; in other words, to conform to some national standard on labeling.

Let me make it clear that so far as this particular Member is concerned I do not feel strongly in connection with this amendment. I would hope those who do feel strongly against it would move expeditiously to state their remarks and let us get to a vote.

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

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

Mr. CEDERBERG. The Department is not having problems with Michigan. Michigan is having problems with the Department. We want to be sure that the standards in Michigan, which are higher than the national standards, are not lowered. That is all we want. We think we can make a good case.

Mr. SISK. I thank my good friend from Michigan. I would assume the Department felt it was having a problem with Michigan. I assume the Michigan people feel they are having a problem with the Department.

Actually, this amendment does not in any way affect the right to control the ingredients going into the meat. All it has to do with is labeling. It does require standards in labeling.

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

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

Mr. MAYNE. I should like to associate myself with the remarks and the position just stated by the gentleman from California (Mr. SISK). I, too, hope that we will not devote a great deal of time to this committee amendment, and will move on to the others.

Mr. SISK. I thank my colleague for his contribution.

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

Mr. Chairman, during its consideration of S. 1316, the Agriculture Committee added a provision which would negate all State and local consumer laws governing the packaging, labeling, and marking of meat and meat food products which are in addition to or different than Federal requirements.

This provision would render useless State and local laws requiring unit pricing, nutritional labeling, open dating, and many other proconsumer requirements for meat products simply because there are no similar Federal requirements. States seeking to impose stronger consumer standards would lose their meat and poultry inspection funds from the Federal Government.

Mr. Chairman, it is impossible to calculate how many State and local laws—present and future—would be affected by this unwise preemption provision. But the total number would surely be in the hundreds. Vermont, for example, has a packaging law which prohibits the hiding of poor quality meat under better quality cuts in large family-style packages; and a marking law governing the description of frozen meat sold after it has been thawed. Four States—Massachusetts, Connecticut, Maryland, and Nevada—have laws requiring unit pricing of many food products including meat. New York and California have State requirements regarding the name used to describe the cut and grade of meat. All of these laws—and hundreds more—would be invalidated by the new section 2 of S. 1316, simply because the USDA did not possess the wisdom to promulgate similarly high standards.

Moreover, there is ample reason to believe that the Agriculture Committee amendment would invalidate local meat packaging, labeling, and marking requirements as well. An advisory opinion from the American Law Division of the Congressional Research Service concludes that the word "State" as used in new section 2, would be construed by the courts to include cities and other political subdivisions of States.

Mr. Chairman, persuasive arguments can be made for Federal preemption when State and local laws are clearly inferior to Federal standards. But preemption is inappropriate when State and local laws are clearly superior to Federal requirements.

It would be a terrible mistake for Congress to take from the States and localities their initiative in providing their citizens with strong consumer protection laws. Accordingly, Mr. Chairman, I urge my colleagues to vote against new section 2 of S. 1316.

Mr. CONYERS. Mr. Chairman, the

State of Michigan proudly has one of the toughest laws governing the content, packaging, and labeling of prepackaged meats in the country. That is why I am calling your attention to committee amendment S. 1316 which would in effect penalize Michigan consumers for their high standards. The amendment would require the Secretary of Agriculture to withhold Federal funds under the Meat Inspection Act from any State which might adopt standards that are in addition to or different than the Federal standards for the marking, labeling, or packaging of meat or meat food products. Consequently, Michigan would be required to lower its meat packaging laws which are stricter than those of the Federal Government.

With passage of this legislation, courts would most likely uphold any decision by the Secretary of Agriculture to withhold funds to State agencies because of a municipal or State ordinance or law imposing requirements different from Federal requirements. Furthermore, the adoption of this amendment would further complicate and possibly prejudice litigation between the State of Michigan and an interstate packer which is now pending in the U.S. Circuit Court of Appeals for the Sixth Circuit. In that case the right of the State of Michigan to impose a different though higher standard of consumer protection was recognized by the lower court.

Most objectionable in the bill, of course, is its potential effect on Michigan consumers. Stores can presently trim off fat and sell an inferior grade of meat as a better grade at a higher price without so specifying because Federal standards permit it. The Federal Government currently pays half of Michigan's costs for having a meat inspection program. If the city of Detroit or the State of Michigan upgraded their packaging standards to outlaw the fraudulent sale of inferior meat grades for higher grades, Michigan would lose its Federal subsidies. Under S. 1316, Michigan would lose its Federal share of meat inspection funds.

I urge my colleagues in the House to support the amendment by my colleague from New York (Mr. ROSENTHAL) to change the text of the bill to permit States and cities to impose standards which are not lower than but may be higher than those required under Federal law. To that end, the Detroit Common Council unanimously passed a resolution introduced by Councilman Mel Ravitz, the text of which follows:

A RESOLUTION BY COUNCILMAN RAVITZ

Whereas, a current amendment to U.S. Senate Bill 1316 in the House Agricultural Committee states that marketing, labeling, packaging of any State cannot be different than Federal requirements, otherwise federal funds can be cut off for the financing of meat inspection; and

Whereas, if this amendment is adopted, it would lower the standard of consumer protection in Michigan and prevent enactment of a primal meat labeling law which in turn would allow deception of Michigan Consumers by supermarkets;

Now therefore be it resolved: That the Detroit Common Council urge the Congress to change the text of its amendment Sec. 301 (a) (3) to Senate Bill 1316 from "The Secretary shall withhold funds . . . when he determines that the state has imposed any requirements in addition to or different than those made under this act relating to marking, labeling, packaging or ingredients . . ." to "The Secretary shall withhold funds . . . when he determines that the state has imposed requirements lower than the minimum federal requirements made under this act relating to marking, labeling, packaging or ingredients . . ."; and

Be it resolved: That copies of this resolution be sent to the Federal Department of Agriculture, to all Michigan Congressmen and Senators and to the President of the United States.

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

Mr. Chairman, I realize the lateness of the hour. I did have a prepared text here to offer in opposition to this amendment, but I will just put it aside.

I would like to have the attention of the chairman of the committee and direct a question to him.

It is apparent our colleagues here and to the Michigan Members that in the Speaker's lobby here there are displayed several types of animal organs that are permitted to be in hot dogs, sauages, and meat food products under Federal law, but we in Michigan have a higher standard. We do not permit these animal organs to be put in these meat food products in Michigan.

Now I would like to ask the chairman of the committee this question, if I may have his attention:

The committee amendment says that the Secretary shall withhold funds and other assistance under any cooperative agreement entered into under this section with any State agency when he, the Secretary, determines that the State has imposed any requirements in addition to or different than—those are the controlling words, "in addition to or different than"—those made under this act relating to marketing, labeling, or packaging of federally inspected meat.

Now, does this not mean that if we in Michigan want to have a label that says that we do not have pig snuots and pig lips and udders and spleens and all these things in our meat food products up there, the people in the Federal Government can say, "We are not going to give you your 80 percent for meat inspection" and thereby deny Michigan its funds under this act?

Mr. SISK. Will the gentleman yield?

Mr. CHAMBERLAIN. I am happy to yield to the Chairman of the committee.

Mr. SISK. The gentleman is right.

The State of Michigan, the State of California, the State of New York, and any other State under the terms of this amendment would be prohibited from special or unusual types of labeling. It would have nothing to do with the ingredients of the product, but it would require standardized labeling, and as I have said already, if my colleague would yield just a little bit further, none of us are arguing about this amendment. I would just like to get it to a vote.

Mr. CHAMBERLAIN. I would like to thank the chairman for his response, and I will say we are grateful on both sides to the chairman and his committee for their consideration in removing the words here. However, the Chairman, in responding to my question, has told us precisely why we in the Michigan delegation—and we ask your support, too—should oppose this amendment in its entirety. It is because we are not permitted to label our packages to say that we do not have these products in our hot dogs and sausages.

Mr. FOLEY. Will the gentleman yield?

Mr. CHAMBERLAIN. I yield to the gentleman.

Mr. FOLEY. I hope I can save some time here.

I understand the gentleman's opposition to this committee amendment. Let me say I do not think there is in this Chamber anyone in favor of the committee amendment. We are probably beating the deadest of dead horses. If we took a teller vote on this now—and I am not suggesting it—I do not think the committee amendment would get one single vote. It is not supported any longer by the Department of Agriculture or by industry or anyone, so let us just get rid of the committee amendment.

Mr. CHAMBERLAIN. Let us vote it down.

I thank the gentleman for his contribution.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. The second sentence of paragraph (3) of section 5(a) of the Poultry Products Inspection Act, as amended (21 U.S.C. 454 (a) (3)), is amended by striking out "50 per centum" and inserting in lieu thereof "80 per centum".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 12, strike out "Sec. 2." and insert "Sec. 3."

Mr. SISK. Mr. Chairman, the action just taken by the House would make null and void the necessity of these other two or three technical amendments.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. The amendments made by this Act shall be effective beginning with the fiscal year which begins July 1, 1971.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Before we vote on this bill, I urge my colleagues to vote against this bill. This bill in its present form is certainly, without any doubt at all, a blow at the 1967 Clean Meat Act and a blow at the health and protection of the consumers of this country. It makes our Government no longer able to apply pressure in order to bring these State systems that are below Federal standards up to the minimum standards that they should be at, and to get them up to Federal standards would probably take 6 months because it takes that long to get them decertified and require them to improve to avoid decertification. If one plant is not up to Federal standards, the only way the Federal serv-

ice can get it up to standard would be to close down the whole State. That closing would be accomplished after a period of 6 months and after a lot of sick animals may have been marketed.

Mr. FOLEY. Will the gentleman yield?

Mr. SMITH of Iowa. I am glad to yield to the gentleman.

Mr. FOLEY. Mr. Chairman, I want to compliment the gentleman on his statement, and I hope to make my position very brief.

I am opposed to this bill. As the gentleman says, it is an act of regression in terms of consumer protection in the United States.

Second, let me suggest to those who might have some concern about Federal revenue sharing that if you begin to pay 80 percent of the cost of a State governmental function in the field of meat inspection, then you are going to have to answer the demands of other State departments for 80-percent Federal funding. We are going to establish a precedent here which will not help the States and will lead them into a situation of demanding more and more of their operations from the Federal Government.

In my opinion it is the most irresponsible movement in terms of Federal cost sharing that I can think of.

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

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, I want to compliment my colleague, the gentleman from Iowa (Mr. SMITH). The gentleman is correct in his statement. This is a bill that should be thoroughly and soundly defeated. It is an anticonsumer bill, and I hope that it is overwhelmingly defeated.

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

Mr. SMITH of Iowa. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, on this 80–20 contribution, the gentleman might be interested to know that the States of Minnesota, Missouri, Montana, Nebraska, North Dakota, Oregon, Pennsylvania, and Kentucky are not taking part in this program, and if this bill passes it will give them the opportunity to pay 80 percent of somebody else's costs.

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

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, there is not a man or woman on this floor tonight who understands what is in this bill before us.

Mr. SMITH of Iowa. The gentleman is exactly right.

Mr. POAGE. To pass a bill of this magnitude with absolutely no understanding of what it does seems to me to be the height of ridiculous folly for this House to agree to it. I am against this bill. I think it does nothing but double the inspection burdens of this country, and it is silly to have it pass.

Mr. SMITH of Iowa. As a matter of fact, I will venture the opinion that if the bill does pass, after the Department of Agriculture studies the bill and have found out what is in the bill, they would recommend that the President veto the bill.

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

Mr. SMITH of Iowa. I yield further to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I will only take just a brief moment in order to make two statements of fact, and not for argument.

Statement of fact No. 1: This bill was reported out of the Committee on Agriculture by one vote; the vote was 17 to 16. Included in the "no" votes on this bill was the distinguished gentleman from Texas, the chairman of the committee (Mr. POAGE) and the distinguished ranking minority member, the gentleman from Oklahoma (Mr. BELCHER). Also the chairman of the subcommittee that heard the bill, the gentleman from Texas (Mr. PURCELL). In addition to that, 14 other Members voted against the bill.

Now, the other statement of fact:

This bill is opposed by the largest trade organizations in the meat industry, the American Meat Institute, it is opposed by other meat trade institutions; it is opposed by organized labor, and it is opposed by the Consumers Federation.

I thank the gentleman for yielding.

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

Mr. SISK. Mr. Chairman, in the reading of the bill did the Clerk complete the reading of the committee amendments, and were they disposed of?

The CHAIRMAN. The Chair will state to the gentleman that the Chair would like to dispose of the committee amendments.

Mr. MAYNE. Mr. Chairman, I believe I am correct that I was recognized by the Chair?

The CHAIRMAN. The Chair recognized the gentleman from Iowa. The gentleman will proceed.

Mr. MAYNE. Mr. Chairman, we have now seen the big guns rolled out against this little bill which will make it possible for rural America to continue to have locker plants, and for rural communities to still have independent small businessmen people who can serve their needs.

It is true that the Amalgamated Meatcutters Union, big labor, big corporations, and the American Meat Institute are against this bill. The unions are against the bill because they cannot organize these little independent plants, and the big packers are against it because they want to see their small independent competitors driven out of business by Federal inspection. That is why they are opposed to this bill which will give State inspection a chance to survive.

Now, all we want is a chance to have State inspection systems continue to work. I would not take this much time if there had not been such a sparse attendance at the time we discussed this bill earlier. But it is necessary to reply to the lengthy attack on the bill which has just been made. I would like you to hear our side of it, too.

The uncontradicted record of the hearings of the committee show that State inspections are going to go under if we cannot get this 80–20 bill passed and if State inspections go under the Federals are going to close down the independent meat packing establishments in this country and rural America is not going to have service. Our townspeople and farmers will have to go to the big city which is right where the unions and the corporate giants want them to go. They are not interested in seeing the small town and the medium-sized towns in American survive. They could not care less. But I think the conscience of this House does care and I appeal to you to vote for this 80–20 bill, not only for rural America but because it is going to save Uncle Sam money. Why? Because if you do not go for 80–20 the Federal Government is going to be stuck with the whole 100 percent because State inspection is going to go under. And it will be 100 percent of a much larger total cost because everything the Federal Government does costs more than what State and local governments do.

A vote for this bill is a vote for economy and for saving independent small businesses and for continuing service to the farms and small towns of America. A vote for this bill is a very sound and absolutely essential vote.

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

Mr. MAYNE. I yield to the gentleman.

Mr. SISK. Let me say that I do appreciate the fact that we do have a few people on the floor. We debated this bill for about an hour with no one here, to be quite frank about it.

I totally disagree with the statements made by some of my colleagues, my good friend, the gentleman from Washington—he has a perfect right to his opinion. But I totally disagree with him.

I disagree with my good friend and the greatly respected chairman over here.

Now, the other body, and I know I have to be careful about the rules here, the other body passed this bill so far as I know unanimously. It is rather surprising to me sometimes how much pressure can be brought from a very minute source of the country.

The facts are that practically every State in the Union so far as we know in connection with their departments are in line with this particular problem and are in support of this legislation. Frankly, all that we sought to do here was to change the ratio to somewhat better conform what the average programs otherwise would do.

Now, you vote your conscience. The point is that basically the States of the Union want this program and it is basically a good program. All it does is change the ratio.

PREFERENTIAL MOTION OFFERED BY MR. CAREY OF NEW YORK

Mr. CAREY of New York. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. CAREY of New York moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. CAREY of New York. Mr. Chairman, I do not think that debate is necessary on this motion. The committee knows what is involved here. We can save

time and energy and valuable time of the Members by adopting this motion.

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

Mr. MAYNE. I recognize that it is not necessary to take much time for debate, but I do honestly and earnestly oppose the motion. Its adoption would be a disaster for small business and rural America.

I urge a "no" vote on this motion.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from New York (Mr. CAREY).

The question was taken; and on a division (demanded by Mr. CAREY of New York) there were——ayes 104, noes 97.

TELLER VOTE WITH CLERKS

Mr. MAYNE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. MAYNE. Mr. Chairman I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. CAREY of New York, MAYNE, ROSENTHAL, and SISK.

The Committee divided, and the tellers reported that there were—ayes 172, noes 170, not voting 89, as follows:

[Roll No. 410]

[Recorded Teller Vote]

AYES—172

Abbitt	Erlenborn	O'Hara
Abzug	Fascell	O'Neill
Adams	Findley	Patten
Addabbo	Foley	Pettis
Anderson, Calif.	Ford, Gerald R.	Pike
	Ford, William D.	Poage
Archer	Fraser	Podell
Ashley	Frenzel	Price, Ill.
Aspin	Fulton	Purcell
Barrett	Gaydos	Rangel
Begich	Gibbons	Rees
Biaggi	Goodling	Reuss
Biester	Grasso	Robison, N.Y.
Bingham	Green, Pa.	Rodino
Boggs	Gude	Roe
Boland	Hays	Rogers
Bolling	Hechler, W. Va.	Rosenthal
Brademas	Heckler, Mass.	Roush
Brasco	Heinz	Roybal
Brooks	Helstoski	St Germain
Broyhill, N.C.	Henderson	Sandman
Burke, Mass.	Hicks, Mass.	Sarbanes
Burleson, Tex.	Hicks, Wash.	Saylor
Burton	Holifield	Scheuer
Byrnes, Wis.	Horton	Seiberling
Cabell	Hosmer	Shipley
Carey, N.Y.	Howard	Slack
Carlson	Hull	Smith, Calif.
Carney	Hungate	Smith, Iowa
Casey, Tex.	Jacobs	Snyder
Chisholm	Karth	Stanton, James V.
Clawson, Del	Kastenmeier	Steele
Cleveland	Kee	Stokes
Collier	Kemp	Stratton
Collins, Ill.	Kluczynski	Stubblefield
Colmer	Landgrebe	Sullivan
Conable	Long, Md.	Teague, Tex.
Conover	McCloskey	Thompson, N.J.
Conte	McKinney	Tiernan
Conyers	Macdonald, Mass.	Udall
Corman	Madden	Ullman
Cotter	Mahon	Vanik
Coughlin	Mailliard	Vigorito
Crane	Mazzoli	Waldie
Curlin	Meeds	Ware
Daniels, N.J.	Melcher	Whalley
Danielson	Mikva	White
de la Garza	Minish	Whitten
Delaney	Minshall	Widnall
Dellums	Mitchell	Wiggins
Denholm	Monagan	Wolff
Dent	Montgomery	Wydler
Dingell	Moorhead	Wyman
Donohue	Morgan	Yates
Dow	Natcher	Yatron
Drinan	Nedzi	Young, Fla.
Dulski	Obey	Zablocki
Eckhardt		
Edwards, Calif.		

NOES—170

Albert	Griffin	Pickle
Alexander	Grover	Pirnie
Anderson, Ill.	Gubser	Powell
Anderson, Tenn.	Haley	Preyer, N.C.
	Hall	Price, Tex.
Andrews, N. Dak.	Hamilton	Pryor, Ark.
	Hammer-schmidt	Quie
Arends		Quillen
Ashbrook	Hansen, Idaho	Railsback
Baker	Hansen, Wash.	Randall
Bennett	Harsha	Rarick
Bergland	Harvey	Roberts
Betts	Hathaway	Rooney, Pa.
Blackburn	Hillis	Rousselot
Bray	Hogan	Roy
Brinkley	Hunt	Ruppe
Broomfield	Hutchinson	Ruth
Brotzman	Ichord	Satterfield
Brown, Mich.	Jarman	Schneebeli
Brown, Ohio	Johnson, Calif.	Scott
Buchanan	Johnson, Pa.	Sebelius
Burke, Fla.	Jones, Ala.	Shoup
Burlison, Mo.	Jones, N.C.	Shriver
Caffery	Jones, Tenn.	Sikes
Camp	Kazen	Sisk
Carter	Keating	Skubitz
Cederberg	Kyl	Smith, N.Y.
Chamberlain	Landrum	Spence
Chappell	Latta	Staggers
Clancy	Leggett	Stanton, J. William
Clausen, Don H.	Lennon	
	Link	Steed
Collins, Tex.	Long, La.	Steiger, Ariz.
Daniel, Va.	McClory	Steiger, Wis.
Davis, Ga.	McCollister	Stephens
Davis, Wis.	McDade	Stuckey
Dellenback	McEwen	Talcott
Dennis	McFall	Taylor
Derwinski	McKay	Terry
Dickinson	McKevitt	Thompson, Ga.
Dorn	Mallary	Thone
Downing	Mann	Van Deerlin
Duncan	Martin	Vander Jagt
du Pont	Mathis, Ga.	Veysey
Edwards, Ala.	Matsunaga	Waggonner
Esch	Mayne	Wampler
Eshleman	Michel	Whalen
Fish	Miller, Ohio	Whitehurst
Fisher	Mills, Ark.	Williams
Flood	Mills, Md.	Wilson, Bob
Flowers	Mink	Wilson, Charles H.
Flynt	Mizell	
Forsythe	Myers	Winn
Fountain	Nelsen	Wright
Frelinghuysen	Nix	Wyatt
Frey	Passman	Young, Tex.
Fuqua	Pelly	Zion
Goldwater	Pepper	Zwach
Gonzalez	Perkins	

NOT VOTING—89

Abernethy	Gallagher	McMillan
Abourezk	Garmatz	Mathias, Calif.
Andrews, Ala.	Gettys	Metcalfe
Annunzio	Giaimo	Miller, Calif.
Aspinall	Gray	Mollohan
Badillo	Green, Oreg.	Mosher
Baring	Griffiths	Moss
Belcher	Gross	Murphy, Ill.
Bell	Hagan	Murphy, N.Y.
Bevill	Halpern	Nichols
Blanton	Hanley	O'Konski
Blatnik	Hanna	Patman
Bow	Harrington	Peyser
Broyhill, Va.	Hastings	Pucinski
Byrne, Pa.	Hawkins	Reid
Byron	Hébert	Rhodes
Celler	Jonas	Riegle
Clark	Keith	Robinson, Va.
Clay	King	Roncalio
Culver	Koch	Rooney, N.Y.
Davis, S.C.	Kuykendall	Rostenkowski
Devine	Kyros	Runnels
Diggs	Lent	Scherle
Dowdy	Lloyd	Schmitz
Dwyer	Lujan	Schwengel
Edmondson	McClure	Springer
Eilberg	McCormack	Symington
Evans, Colo.	McCulloch	Teague, Calif.
Evins, Tenn.	McDonald, Mich.	Thomson, Wis.
Galifianakis		Wylie

So the preferential motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SYMINGTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 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, had directed him to report the bill back to the House with the recommendation that the enacting clause be stricken out.

The SPEAKER. The question is on the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out.

Mr. MAYNE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 169, not voting 88, as follows:

[Roll No. 411]

YEAS—173

Abbitt	Fascell	Obey
Abzug	Findley	O'Hara
Adams	Foley	O'Neill
Addabbo	Ford, Gerald R.	Patten
Anderson, Calif.	Ford, William D.	Pepper
		Perkins
Archer	Fraser	Pike
Ashley	Frenzel	Poage
Aspin	Fulton	Podell
Begich	Garmatz	Price, Ill.
Belcher	Gaydos	Purcell
Biaggi	Gibbons	Rees
Biester	Gonzalez	Reuss
Bingham	Grasso	Robison, N.Y.
Blatnik	Green, Pa.	Rodino
Boggs	Gude	Roe
Boland	Hansen, Wash.	Rogers
Bolling	Hays	Rosenthal
Brademas	Hechler, W. Va.	Roush
Brasco	Heckler, Mass.	Roybal
Brooks	Heinz	St Germain
Broyhill, N.C.	Helstoski	Sandman
Burke, Mass.	Hicks, Mass.	Sarbanes
Burleson, Tex.	Hicks, Wash.	Saylor
Burton	Holifield	Scheuer
Byrnes, Wis.	Horton	Seiberling
Cabell	Howard	Shipley
Carey, N.Y.	Hull	Slack
Carlson	Hungate	Smith, Calif.
Carney	Jacobs	Smith, Iowa
Casey, Tex.	Jarman	Snyder
Chisholm	Karth	Staggers
Clawson, Del	Kastenmeier	Steele
Cleveland	Kee	Stokes
Collier	Kemp	Stratton
Collins, Ill.	Kluczynski	Stubblefield
Colmer	Landgrebe	Sullivan
Conable	Long, Md.	Symington
Conover	McCloskey	Teague, Tex.
Conte	McKinney	Thompson, N.J.
Conyers	Macdonald, Mass.	Tiernan
Corman		Udall
Cotter	Madden	Ullman
Coughlin	Mahon	Vanik
Curlin	Mailliard	Vigorito
Daniels, N.J.	Mazzoli	Waldie
Danielson	Meeds	Ware
de la Garza	Melcher	White
Delaney	Michel	Whitten
Dellums	Mikva	Widnall
Dent	Minish	Wiggins
Dingell	Minshall	Wolff
Donohue	Mitchell	Wright
Dow	Monagan	Wydler
Drinan	Montgomery	Wyman
Dulski	Moorhead	Yates
Eckhardt	Morgan	Young, Fla.
Edwards, Calif.	Natcher	Zablocki
Erlenborn	Nedzi	

NAYS—169

Alexander	Bray	Chamberlain
Anderson, Ill.	Brinkley	Chappell
Anderson, Tenn.	Broomfield	Clancy
	Brotzman	Clausen, Don H.
Andrews, N. Dak.	Brown, Mich.	
	Brown, Ohio	Collins, Tex.
Arends	Buchanan	Crane
Ashbrook	Burke, Fla.	Daniel, Va.
Baker	Burlison, Mo.	Davis, Ga.
Bennett	Caffery	Davis, Wis.
Bergland	Camp	Dellenback
Betts	Carter	Denholm
Blackburn	Cederberg	Dennis

Derwinski	Kazen	Roy
Dickinson	Keating	Ruppe
Dorn	Kyl	Ruth
Downing	Landrum	Satterfield
Duncan	Latta	Schneebeli
du Pont	Leggett	Scott
Edwards, Ala.	Lennon	Sebelius
Esch	Link	Shoup
Eshleman	Long, La.	Shriver
Fish	McClory	Sisk
Fisher	McCollister	Skubitz
Flood	McDade	Smith, N.Y.
Flowers	McEwen	Spence
Flynt	McFall	Stanton,
Forsythe	McKay	J. William
Fountain	McKevitt	Stanton,
Frelinghuysen	Mallary	James V.
Frey	Mann	Steed
Fuqua	Martin	Steiger, Ariz.
Goldwater	Mathis, Ga.	Steiger, Wis.
Goodling	Matsunaga	Stephens
Griffin	Mayne	Stuckey
Grover	Miller, Ohio	Talcott
Gubser	Mills, Ark.	Taylor
Haley	Mills, Md.	Terry
Hall	Mink	Thompson, Ga.
Hamilton	Mizell	Thone
Hammer-	Myers	Van Deerlin
schmidt	Nelsen	Vander Jagt
Hansen, Idaho	Passman	Veysey
Harsha	Pelly	Waggonner
Harvey	Pettis	Wampler
Hathaway	Pickle	Whalen
Henderson	Pirnie	Whalley
Hillis	Powell	Whitehurst
Hogan	Preyer, N.C.	Williams
Hosmer	Price, Tex.	Wilson, Bob
Hunt	Pryor, Ark.	Wilson,
Hutchinson	Quie	Charles H.
Ichord	Quillen	Winn
Johnson, Calif.	Railsback	Wyatt
Johnson, Pa.	Randall	Yatron
Jonas	Rarick	Young, Tex.
Jones, Ala.	Roberts	Zion
Jones, N.C.	Rooney, Pa.	Zwach
Jones, Tenn.	Rousselot	

NOT VOTING—88

Abernethy	Gettys	Miller, Calif.
Abourezk	Giaimo	Mollohan
Andrews, Ala.	Gray	Mosher
Annunzio	Green, Oreg.	Moss
Aspinall	Griffiths	Murphy, Ill.
Badillo	Gross	Murphy, N.Y.
Baring	Hagan	Nichols
Barrett	Halpern	Nix
Bell	Hanley	O'Konski
Bevill	Hanna	Patman
Blanton	Harrington	Peyser
Bow	Hastings	Pucinski
Broyhill, Va.	Hawkins	Rangel
Byrne, Pa.	Hébert	Reid
Byron	Keith	Rhodes
Celler	King	Riegle
Clark	Koch	Robinson, Va.
Clay	Kuykendall	Roncalio
Culver	Kyros	Rooney, N.Y.
Davis, S.C.	Lent	Rostenkowski
Devine	Lloyd	Runnels
Diggs	Lujan	Scherle
Dowdy	McClure	Schmitz
Dwyer	McCormack	Schwengel
Edmondson	McCulloch	Sikes
Eilberg	McDonald,	Springer
Evans, Colo.	Mich.	Teague, Calif.
Evins, Tenn.	McMillan	Thomson, Wis.
Galifianakis	Mathias, Calif.	Wylie
Gallagher	Metcalfe	

So the recommendation of the Committee of the Whole House on the State of the Union that the enacting clause be stricken out was agreed to.

Mr. CRANE changed his vote from "yea" to "nay."

Mr. PERKINS changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2770) entitled "An act to amend The Federal Water Pollution Control Act."

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, on Monday, September 25, 1972, the House passed H.R. 16754, making appropriations for military construction for the Department of Defense for fiscal year 1973. If I had been present and voting, I would have voted "nay."

STUDY BY ARMY CORPS OF ENGINEERS OF WASTE TREATMENT SYSTEMS FOR CHICAGO

(Mr. LANDGREBE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LANDGREBE. Mr. Speaker, C–SELM—Chicago—South End of Lake Michigan—is a study by the Army Corps of Engineers of alternative waste treatment systems for the sewage of the Chicago-land area. The corps initially had 19 separate plans, but have screened those 19 down to five.

Of these five plans, plan I calls for the land disposal technique of treating sewage, as opposed to the conventional plant treatment techniques. The land disposal technique requires the use of very large areas of land—part of it to be used as irrigation beds on which the sewage is spread for treatment, and part of it to be used for lakes in which the raw sewage and sludge is stored. Sludge consists of the constituents of the sewage that have been deposited or filtered out of the sewage. This sludge must be gotten rid of, and the plan calls for it to be spread out on large areas of land or hauled by some means to the strip mine areas of central and southern Indiana.

It is also alleged that the sludge from this sewage has fairly high amounts of phospherous and nitrogen and, thus, could have some value as a fertilizer.

Plan I calls for the use of over 600,000 acres of rural farmland in Indiana and Illinois—244,000 acres in Indiana, 432,000 in Illinois. In Indiana alone, 51,000 acres would be purchased outright for the location of the storage lakes and sludge beds. These lakes, it should be noted, would be simple large open vats. The consequences of plan I for the areas involved would be truly incredible. The Corps of Engineers estimates that 25,000 persons would be displaced from their land. Thousands of acres of land would be removed from the local tax rolls, and thousands of acres of rich farmland would be removed from production. Thus, not only those persons displaced from their land, but also those in surrounding communities would suffer great economic loss.

This inconceivable project, if carried to completion, would result in an economic and social as well as environmental disaster to my Second District of Indiana. As for its effects upon my neighboring State, I prefer to let Illinois Congressmen speak for their individual districts.

TRIBUTE TO GERTRUDE T. BENNETT

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

Mr. ASPINALL. Mr. Speaker, last Sunday the Washington scene lost one of its noblest characters and sweetest personalities when Gertrude T. Bennett, wife of Elmer F. Bennett, General Counsel of the Office of Emergency Preparedness, passed away.

The Bennetts came to Washington, D.C., during the days of World War II. Shortly after, Elmer began working on the staff of the late U.S. Senator Eugene Millikin of Colorado. Since that time, the Bennetts have lived in the Washington area, returning to their former home in Greeley, Colo., only for family and business visits. Elmer served as Under Secretary of the Interior from 1958 to 1961, after serving in other capacities in the Department from 1953. He also engaged in the private practice of law here for several years, and more recently, he made a significant contribution as General Counsel of the Public Land Law Review Commission.

During all these years, Trudy, as she was known to us, endeared herself to all whom she came in contact. She was possessed with one of the finest and most charming personalities I have ever known—considerate, gracious, unassuming, and purely delightful. She was a dedicated wife and mother—always giving of her moral and physical strength and devotion first to her family. She leaves her son, John, and her daughter Kathryn, and two grandchildren to carry on her gentleness and yet firmness of spirit and accomplishments.

Trudy was an accomplished and gracious hostess. Every guest felt at home in her presence whether being entertained in her own home, or as a guest in some other setting. Her sincerity and her honest interest in her friends' endeavors and her simple and lovable charm endeared her to all who came within the sphere of her presence.

Trudy Bennett left a beautiful heritage for all of us who were privileged to know her. She will indeed be missed by all who were honored with her friendship.

CONGRESSMAN PICKLE INTRODUCES BILL TO ALLOW PROFESSIONAL SPORTS EVENTS TO BE BROADCAST IN THE HOME AREA WHEN THE GAMES ARE SOLD OUT

(Mr. PICKLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, today I have introduced a bill that will allow professional sporting events that are sold out to be telecasted in a team's home city.

My bill amends section 2 of the Antitrust Act, passed September 30, 1961 (15 U.S.C. 1292). Section 2 of the Antitrust Act is entitled "An act to amend the antitrust laws to authorize leagues of professional football, baseball, basketball,

and hockey teams to enter into certain television contracts." I would replace the period at the end of the section with a comma and add the following: "but this exception shall cease to apply with respect to any such game when tickets for admission to such game are no longer available for purchase by the general public 48 hours before the scheduled beginning time of such game."

This is the same bill which Senator PASTORE has introduced in the Senate. Cosponsors of this bill in the Senate are Mr. BEALL, Mr. BIBLE, Mr. COOK, Mr. COTTON, Mr. GRIFFIN, Mr. HUMPHREY, Mr. KENNEDY, Mr. MOSS, Mr. NELSON, Mr. PROXMIRE, and Mr. RANDOLPH.

Subcommittee on Communications of the Senate Commerce Committee is holding hearings this week on the banning TV blackouts bill. This committee is chaired by Senator PASTORE.

I think the need for this type of legislation is apparent. Understandably, there are more fans for certain sporting events than any stadium can accommodate.

The simple solution would be to televise these events—providing the broadcast does not conflict with high school or college/university games, but in order to do so we must relax the antitrust provisions.

Further study may show a need to amend the Federal Communications Act also. If this is so, I am prepared to introduce at the proper time a bill to accomplish such revision. For the time being, however, I feel my bill would accomplish the purpose for which I intend.

I believe this change will allow greater flexibility to the major television networks and present no disservice to ticket sales of professional sporting events.

The changes will also allow many elderly persons and shut-ins an opportunity to take part in home town sports.

REPRESENTATIVE MYERS INTRODUCES LEGISLATION REQUIRING SECRETARY OF INTERIOR TO ESTABLISH RECREATIONAL FACILITIES ON ABANDONED RIGHTS-OF-WAY

(Mr. MYERS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MYERS. Mr. Speaker, I am today introducing legislation requiring the Secretary of Interior to establish and maintain, under regulations which he shall prescribe, bicycle paths, off-the-road motorized vehicle trails, or related recreational facilities on abandoned rights-of-way returned to the public domain. The result of this legislation would be to maximize the use of certain areas of the public domain best suited for recreational purposes to meet the growing demand for trails for recreational vehicles.

I realize that railroad rights-of-way returned to the public domain in the past have already been reclassified for other uses and that it would be costly and disruptive to convert these lands to the uses required by this measure. Therefore, this bill will apply only to railroad rights-of-way returned to the public domain within the 10-year period prior to the date of enactment of this legislation and to rights-of-way which may be returned in the future.

As Amtrak consolidates railroad service in the United States we anticipate more and more land will be abandoned by the railroads. There is increasing demand for recreational areas for bicycles, other off-the-road vehicles and horse trails. I believe the abandoned railroad rights-of-way offer an excellent solution to meeting this demand.

In some instances railroad easements returned to the public domain would not, because of their nature or location, be suitable for use in accordance with the recreational purposes specified in this bill. Therefore, the Secretary of Interior will be required to conduct a basic study of all rights-of-way returned to the public domain and publish the findings of the study no later than 180 days after the land has become a part of the public domain. The Secretary shall be required to give priority to the purposes specified in this bill, but he will not be required to use the property for recreational paths if his study discloses the land should be put to better use.

Bicycling is enjoying a renaissance in America as an adult recreational and commuting way of life. A major factor in the encouragement of the bicycle is the fact it can be operated free of air and noise pollution. You also must consider its low upkeep, reliability, and the fact that bicycling is healthful exercise and fun.

The Federal Government, through its Federal aid highway projects, land and water conservation fund grants, the legacy of parks program and the open space land programs, is already deeply involved in the acquisition and development of land for bikeways and other recreational uses.

There would be no cost to the taxpayers for abandoned railroad properties returned to the public domain which means a significant savings in the overall development of such recreational areas.

Bicycling has been endorsed by Government officials, including the President, urban planners, highway and traffic experts, recreational specialists, and environmentalists. This proposal will encourage nationwide development of safe and scenic routes for this activity.

UNANSWERED QUESTIONS ON RUSSIAN WHEAT SALE

(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, the American public keeps being plagued by questions surrounding the Russian wheat sales. Answers are needed and they are needed now.

The sales made by the large American grain trading firms were not publicized and the dates of the sales only came to light in public hearings under questioning by the Agriculture Subcommittee on Livestock and Grains. The first and largest single sale to Russia of 400 million bushels was made by Continental Grain Co. 3 days prior to the joint July 8 announcement by the President in San Clemente, Secretary of Commerce Peterson, and Secretary of Agriculture Butz here in Washington.

When the grain traders' transactions with the Russian trade delegation were concluded through a series of sales no public announcements were made. The traders then began to buy the wheat and, having sold vast quantities which they did not own, we have to assume that the traders protected themselves by buying wheat futures on the commodity exchange markets.

Here are some of the questions that must be answered before the public ever gets the complete story behind the Russian wheat deal.

First. For every purchase of wheat to fill the Russian sales contracts what was the price paid by the grain companies and on what dates?

Second. What futures trading was done by these grain companies subsequent to their sales to the Russians?

Third. On what dates and for how much wheat at what price per bushel were the wheat purchases registered with the Department of Agriculture for the export subsidy?

Fourth. What official in the Department of Agriculture gave assurance to Continental Grain Co. and others that the export target price of $1.63 would be maintained by increasing the export subsidy? And when and how often was the assurance given? Had this assurance been cleared with the Office of Management and Budget and the White House?

Fifth. What part did Mr. Palmby have in establishing the target price or any other assurance or details of the Russian grain sales?

Sixth. Why did not Mr. Palmby notify Secretary Butz of his purchase of a New York City apartment prior to leaving for Russia as head of the American Trade Delegation?

It is only with answers to these questions that we can then judge if the advance information passed out by the Department of Agriculture to the grain companies put them in a position to profit.

It has been clearly established that the grain traders were assured by the Department of Agriculture that they could sell the wheat to Russia at about $1.63 per bushel based on delivered price at ocean ports ready to load on ships. The Department of Agriculture maintained that price assurance to the grain companies by raising the export subsidy to make up any difference between $1.63 and the regular market price. The hearings also have shown that Department of Agriculture officials did notify the grain trading companies of their change in policy regarding export subsidy levels.

Nevertheless, the questions I have posed here have to be answered to provide a clear understanding of just how valuable the Department of Agriculture's tender loving care has been for the grain traders.

The House Agriculture Subcommittee on Livestock and Grains needs to get these answers by resuming public hearings now and require all of these facts be presented for the American public's judgment.

RETIREMENT OF MICHAEL J. BERNSTEIN, MINORITY COUNSEL FOR LABOR COMMITTEE ON EDUCATION AND LABOR

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, with the retirement of Michael J. Bernstein, our minority counsel for labor on the Committee on Education and Labor, the Congress of the United States and the American people are losing a great public servant. After some 30 years of Federal service, including service in both houses of the Congress, Mike richly deserves the rewards and satisfactions which all of his friends wish for him in the years ahead. But all of us who worked with him, in both the House and the Senate and in both political parties, will nevertheless miss his unexcelled expertise in the field of labor law and his all-round knowledge in many fields. And we shall miss his wise counsel.

Recently we had a retirement party for Mike which was attended by a host of his friends in and outside of government, including Members of Congress of both parties and prominent representatives of both organized labor and management. There were appropriate remarks in praise of Mike's service, his remarkable intellect, and his capacity for friendship. But perhaps the best summary of our feelings was contained in a letter to Mike from the President of the United States. President Nixon wrote as follows:

DEAR MIKE: As you retire from the position of Minority Counsel on Labor of the House Committee on Education and Labor, you take with you the good wishes of all of us who have known your excellent work over the years. Few have brought such devotion and expertise to public service in the committees of both the House and Senate. From my own experience on the Hill, I recall the many occasions when your advice and assistance proved invaluable.

In this election year, there is at least one thing that both Republicans and Democrats can agree upon, and that is the outstanding job you have done and the profound sense of loss we feel on the occasion of your retirement. May the years ahead be full of enjoyment for you and Mrs. Bernstein and may they also bring you the pride and satisfaction you so richly deserve for these long years of wise counsel to your government.

With warm personal regards,

Sincerely,

RICHARD NIXON.

These warmly personal remarks of the President typify the esteem in which Mike Bernstein is held by all who have worked with him through the years. His has been a remarkable career. A graduate of the University of Michigan, he earned his L.L.B. and master of law degrees from the New York University School of Law. He is a member of the New York State bar. After service during World War II in the U.S. Army, Mike spent 4½ years with the National Labor Relations Board, rising to the position of senior attorney with the General Counsel of that agency. In 1953 the late Senator Robert A. Taft brought Mike to the U.S. Senate as Counsel to the Senate Committee on Labor and Public Welfare.

In the Senate Mike quickly established himself as an authority on labor law, with wide ranging interests and knowledge in education, veterans affairs, health, and other matters coming before his committee. It was during this time that he came to know the then Vice President Richard M. Nixon. He also knew and worked with a member of the committee of the other party, a young Senator from Massachusetts named John F. Kennedy. While Mike is a staunch Republican—a fact which does great credit to our party—he has always demonstrated an ability to work with members of both parties. Indeed, as he himself said on the occasion of his retirement party, his chief loyalty has been to the Congress as an institution, and of course to our country which that institution is designed to serve.

For 10 years, from 1955 to 1965 Mike served as Minority Counsel of the Senate Committee on Labor and Public Welfare, during which time Senators TAFT, GOLDWATER, and JAVITS were ranking members. In 1965 the then ranking Republican member of our Committee on Education and Labor, William H. Ayres, somehow lured Mike away from the Senate to serve the House of Representatives. For the past 7 years we have had the benefit of his experience and counsel. I know that I can speak for all of the members of our committee when I say that his assistance has been invaluable.

Michael J. Bernstein is one of the finest examples of a public servant, and in honoring him we also honor thousands of other men and women who serve this country with distinction, but very often without the recognition or credit they deserve. As a labor lawyer in private practice Mike could very easily have doubled or tripled his salary over the years, but making money has not been his concern. His concern has been with making sound law and sound public policy for the people of this country which he deeply loves. Mike is a patriot in the best and untarnished meaning of that word.

Mrs. Bernstein, and their son John and Daughter Deborah, must be very proud of Mike. It is a pride which all of us who have worked with him can share. We shall miss his wit, his erudition, his excellent work and counsel. But we hope to have the pleasure of his friendship—and to be able from time to time to call upon his advice—for many, many years.

Mrs. GRASSO. Mr. Speaker, I wish to convey my congratulations and best wishes to Mike Bernstein, general counsel for labor on the minority staff, on the occasion of his retirement.

For years, his dedication and commitment have focused on fulfilling the important duties of his assignment in distinguished service to the committee and the Congress. His services will be missed by all who had occasion to reap the benefits of his advice and counsel.

It is my hope that Mike Bernstein's retirement years will be happy ones, filled with fond memories of the friends and experiences he leaves behind.

Mr. O'HARA. Mr. Speaker, this week marks the end of a long and very fruitful career in public service—the retirement of a man I am proud to call my friend, and from whose wise counsel and good judgment I have for many years benefited.

I am referring, Mr. Speaker, to Mike Bernstein, the retiring minority counsel for labor of the House Committee on Education and Labor.

Before I get Mike in trouble on this his closing day of public service, let me reassure those who have utilized his talents all these years that they have been getting exactly what they thought they were getting—the advice of a strict constructionist, a thorough-going conservative, a labor lawyer whose views of what the law ought to be have not always coincided with mine, but whose knowledge of what the law is has been virtually unequalled and surely unsurpassed by any staff member on that ably staffed committee.

Mike Bernstein has never taken the position so beloved of some career Government employees—that he is only a technician with no concern for policy questions. He has left no doubt in the mind of anyone who has worked with him where he stands. He stands in the intellectual mainstream of American conservatism—and he is a credit to that movement.

Anyone who works with Mike Bernstein knows where he stands. But anyone who asks Mike Bernstein a technical question also knows that he can absolutely depend on the accuracy of the answer—no matter whether that answer serves the objectives Mike might have preferred or not.

We had a party the other evening, Mr. Speaker, in Mike's honor. He was congratulated and he was thanked for his years of service to the committee, and he was finally prevailed upon to respond.

I am not sure there was a stenographer there, and I cannot repeat Mike's words verbatim, but his last bit of professional advice to his friends and admirers was in the form of a warm and heartfelt defense of the legislative branch and the legislative process against its detractors—those who would chip away at the Congress.

Mr. Speaker, if the Congress has been able to live up to Mike Bernstein's high opinion of it, it is at least partly because we have had a few staff members of Mike Bernstein's capability to help us do it.

Mr. ERLENBORN. Mr. Speaker, I accepted my assignment to the Education and Labor Committee 6 or 7 years ago with a reservation. I did not expect to stay long.

That expectation has changed, however, and I speak today of one of the persons who contributed much to that change. He is Michael J. Bernstein, the counsel for labor on the minority staff. Many times when I have been trying to find my way through the complexities of labor law; and many times when I have been making my way along the labyrinthine streets of some foreign capital, I have found an extraordinary guide in Mike Bernstein.

He knows the when and the why of our labor laws better than anybody else in my acquaintance; and his knowledge of the cultural and historical tides which

have affected this and other countries evoke a sense of wonder in me.

Mike Bernstein will retire tomorrow. To him I say, thank you for your superior service to the Congress, and thank you for your remarkable knowledge. To a memorable friend, I say you will be missed, Mike.

Mr. THOMPSON of New Jersey. Mr. Speaker, I wish to join my colleagues in paying tribute to Mike Bernstein, the able and distinguished minority counsel for labor of the Committee on Education and Labor, who will soon be departing for his retirement home in London.

Mike has earned the respect and admiration of Members on both sides of the aisle during his many years of service in the Senate and in the House. His personal integrity, professional ability, and expertise in labor-management matters have served our committee and the Congress well on countless pieces of important legislation.

As chairman of the Special Subcommittee on Labor, I came to know him particularly well over the years as we worked on legislation in committee, on the floor, and in conference. He is not only a first-rate lawyer, but a man of great personal grace and warmth. I am happy that he is now going to have some leisure time to pursue his many diverse interests, and I wish him every happiness in his retirement years.

Mr. VEYSEY. Mr. Speaker, I rise to join my colleagues in paying tribute to Mike Bernstein, one of the outstanding committee counsels I have known. The depth of Mike's experience and expertise is matched by few people on the Hill. It is almost impossible to satisfactorily measure the impact of any single individual on the large volume of labor legislation that flows through the Education and Labor Committee, but from what I have seen I think it is clear that the people of this country have benefited substantially from Mike's advice and help on the bills we have considered in the years he has served the committee's minority.

Mike Bernstein's departure will leave a gap that is hard to fill, but that is merely another indication of the fine job he has done. I want to thank Mike for his help to us and wish him well as he joins his family in London.

Mr. RUTH. Mr. Speaker, I appreciate the time being afforded us at this point in a busy schedule to express our regrets over the pending retirement of Mike Bernstein. However, it is my opinion that Mike deserves this.

I would like to point out two items of significance about Mike. First, he has been an extremely careful and diligent leader on the minority staff, and second, he has always been available for questions and help from my office staff. From my point of view and from my office staff, Mike has always been dependable, courteous and patient, even during the roughest times in the committee.

But Mike has chosen retirement. We are going to miss him.

Sir, fare you well.

Mr. ESHLEMAN. Mr. Speaker, I want to join my colleagues in thanking Mike Bernstein for his many years of dedicated service to the Congress and its membership. During the three terms I have been in Congress and served on the Education and Labor Committee, I have come to know Mike as a knowledgeable, resourceful, and dependable expert in the field of labor law.

Those of us who worked closely with Mike and utilized his expertise know how much he will be missed. Of course, we wish him many happy retirement years, but somehow those best wishes are tempered with the thought that Congress is losing one of its most effective staffers.

There is so much of this Nation's labor law which bears, at least in part, Mike Bernstein's imprint that he can leave us knowing his Capitol Hill years have been productive. But his long service also will be remembered by those who knew him as an example of how congressional staff can exert legislative leadership.

GENERAL LEAVE

Mr. QUIE. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks after my special order today as a testimonial to Mike Bernstein, Minority Counsel for Labor on the Committee on Education and Labor.

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

There was no objection.

COMMISSIONER PETE ROZELLE'S STATEMENT ON THE SO-CALLED BLACKOUT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, there is a great deal of misunderstanding about the proposed legislation which would stop television blackouts of home games in professional sports.

And, I believe, this misunderstanding has been compounded by the testimony presented yesterday by Mr. Thomas E. Kauper, the Assistant Attorney General in charge of the Justice Department's Antitrust Division.

Even the term "blackout," in my judgment, adds to the confusion because, as National Football League Commissioner Pete Rozelle pointed out today before the Senate Commerce Committee which is considering legislation dealing with sports broadcasts, "two or three NFL games are telecast in each home territory each Sunday afternoon."

Mr. Speaker, I made known my views on the controversy in this Chamber last December 10 and said that profootball must never become just another TV sport.

With this in mind, I respectfully request permission to insert in the RECORD the full text of Commissioner Rozelle's testimony which eloquently puts in perspective the sports broadcast issue and ask that my colleagues in the Congress put aside emotion and consider the merits of his case. I might add that I have had calls from players who are also concerned that the unprecedented prosperity and popularity of profootball would be compromised by any ill timed and ill constituted action of this Congress.

Mr. Rozelle's testimony follows:

STATEMENT OF COMMISSIONER ROZELLE

My name is Pete Rozelle. I am Commissioner of the NFL. I am appearing here today to oppose the enactment of Senate Bill 4010 or of any of the other pending Senate bills having the same or a similar purpose.

I have with me Art Rooney, President of the Pittsburgh Steelers, Gerald Phipps, Chairman of the Denver Broncos, and Jim Finks, Vice President and General Manager of the Minnesota Vikings. Also present today is the League's counsel, Hamilton Carothers.

I want to assure you that the comments I am about to make are not simply my own views on this situation. My comments have the unqualified support of each of the 26 member clubs of the NFL.

I think I understand how a Congressional proposal of this character originates. It has the appearance of offering something to the American public free of charge. And, viewed in its most superficial light, it has the appearance of being a proposal which can offer this public benefit without doing damage to anybody.

But these premises are, as we see it, quite in error. Indeed, almost every Congressional statement I have read to date on this subject proceeds on the basis of some very fundamental misunderstandings as to substantially every phase of the matter.

Perhaps the best way for me to begin would be to list some of the statements put forward in support of this proposal and make a brief comment about each.

We hear, for example, this proposal continually referred to as a "blackout" issue. The fact is that it is not a blackout issue at all. NFL home territories are no longer blacked out on television on Sunday afternoons even when the home team is playing a game at home; two or three NFL games are telecast in each home territory each Sunday afternoon. This proposal therefore does not deal with blackouts—it is an effort to prescribe by statute *which* AFL game must be telecast in what area on what occasions.

To say the least, this strikes me as a rather unprecedented proposal. I am not aware that Congress has proposed this for any other form of public entertainment.

We also read statements to the effect that this proposal resolves a significant antitrust issue. The fact is that the member clubs' practice of not telecasting locally the same games being played locally has never presented any antitrust issues—any more than a similar decision by the Kennedy Center, the Barnum & Bailey Circus, or the promoters of a boxing match would.

We read that this practice by the member clubs was successfully defended in an antitrust case during the 1950's, but that conditions have now changed, and the basis for the court's decision can no longer be justified. But the fact is that this particular member club practice has never been the subject of litigation and was not even questioned by the Antitrust Division at that time—which is precisely what, I am informed, the Assistant Attorney General in charge of the Antitrust Division said yesterday.

We have read statements to the effect that the source of the League's present practice is an antitrust immunity granted to the League by an Act of Congress in 1961—when the fact is that the practice of not televising local games locally has never required any antitrust immunity and Congress never intended to deal with it in 1961.

So I think you must agree with me that there are some very fundamental misunderstandings about the legal context of this proposal.

Even more importantly, we think the supporters of this bill are operating with some

equally significant misconceptions as to the predictable effects of this bill and as to the circumstances existing in this particular form of entertainment—which is what professional football is.

We read, for example, that all NFL games are regularly sold-out and that it is no longer feasible for the members of the public to obtain tickets to NFL games—when this is simply not so. The fact is that there are only a limited number of NFL cities where this is the case. In most NFL cities tickets for NFL games are available to the public up to the time of kickoff.

We also hear the statement that the practice of not televising local games locally unfairly deprives home territory fans of their proper share of NFL game telecasts—when the average NFL home territory receives 74 free NFL game telecasts each season, the League and many outsiders are already concerned with the problem of oversaturation and too much television, and the proposal is simply to add additional game telecasts to this tremendous schedule.

We are told that a justification for this proposal can be found in the fact that many NFL clubs play their games in municipally owned stadiums—when municipal stadium authority interests would, we are clear, be as much damaged by this bill as would the NFL member clubs themselves. Substantially every NFL stadium lease is based on percentage of gate receipts and many stadium authorities have a direct financial interest in all or a portion of the parking fees and concessions.

We are told that the enactment of this bill would not in any way affect ticket sales by the member clubs—when there is not a single member club of the League that believes this and all of the League's experience argues to the contrary.

If you are inclined to dispute this, just remember that what you are proposing here is a statutory guarantee to every member of the American public that he will be able to see one, two, three or seven home games of his choice either on television in the comfort of his home or by appearing at the team's local ticket office at any time before 1 p.m. on the Friday preceding any weekend game.

This proposal could create some of the strangest Friday morning ticket lines in the history of public entertainment—with everyone jockeying to remain at the end of the line.

We are told that local telecasts of local games would not affect game attendance when the tickets have already been sold and that in any event the League's only interest is in selling tickets to NFL games—when each member club has a very strong interest in achieving full attendance at its games even when all of the tickets have been sold and all the League's experience supports the proposition that local telecasts of local games can have a dramatic impact on attendance even where tickets have been sold.

We are told that the proposal would not negatively affect the member clubs in any other way—when the proposal would in fact destroy the value of the clubs' radio rights and introduce factors of speculation and confusion into the sale of the member clubs' television rights.

We are even told the proposal would add to the clubs' sources of income—which amounts to the rather remarkable contention that the clubs are stubbornly and for no rational reason resisting the opportunity to make more money.

The League is also told that the proposal is entirely practical—when fact issues could arise in half-a-dozen or so League cities every weekend—visiting club ticket returns, standing room stadiums.

Now what are the facts?

Professional football differs from other professional sports in a variety of ways. Among the most significant is that it simply cannot be played often. A NFL club's entire regular season consists of 14 games. A baseball team's regular season consists of 162 games, a basketball team and a hockey team play around 80 games.

Because of this, football has to *maximize* attendance. It can't offset well-attended games against games which are not well-attended. An entire regular season home game schedule consists of only seven games and full-houses at each of these games become a football club's *minimum* objective.

It is surprising how many people do not focus on this single factor. A comparison of the crowds at football games and at other sports contests gives a totally false impression.

One of the results of this is that every cost factor is compressed into the same limited game schedule. And that includes stadium rentals. If you had chosen to examine Judge Lehr on this yesterday, you would have found that the Kansas City Chiefs will produce revenue for the stadium authorities in 1972 at a figure of $590,000 in rental alone, that the stadium authorities get 50 percent of the concessions and the parking, that the Chiefs are responsible for all maintenance, staffing, and care of the stadium (estimated at $500,000 annually), and that the Chiefs "nut" for the stadium use annually will run at about $2.4 million per year (in rent, upkeep and principal and interest on their own investment in the stadium). And this is for only eleven games.

Still another factor which distinguishes football is the manner in which television is used. Relative to the number of games actually being played, football offers more television than any other professional sport. The fans in each NFL home territory have access not only to all of the away games of their home teams, but, as an average, a total of 74 NFL game telecasts.

And that concerns me—as it does many other observers of professional football, within Congress and without, who feel that the game is already over-exposed and that there is a real risk of football following the path of professional boxing, which killed itself by TV over-saturation.

And now Congress is proposing to enact a statute making it mandatory that we invade this last precinct of non-telecasting—the home territory of the home team when the team is actually playing at home.

Now let's turn to the $64 question—which seems to be:

"You can't get a ticket, so why not put it on TV?"

How many games were actually sold out? Fifty-two National Football League games in the 1971 season were not sellouts. Only five, including the Super Bowl, of eight post-season games sold out. And, we ask you to remember, in no case did the public anticipate the possibility of local TV and many of these were achieved by ticket sales taking place right up to the moment of kickoff. Only 9 teams are sold out for their remaining games at the present time.

Despite the fact fans know NFL games will not be televised locally, there are more than one million unsold tickets available for the remaining eleven weeks of the season.

The 17 teams which are not sold out have a total of 904,238 seats available plus 120,073 standing room tickets.

The Super Bowl Champion Dallas Cowboys alone still have 118,480 for their remaining six home games. The New Orleans Saints, with a 78,000-seat, 130-million dollar Superdome under construction, have 129,118 left for just five games at their present location.

Cleveland has nearly 28,000 tickets remaining unsold for a game with Houston on November 5.

The trouble, I think, lies in the fact that many of you gather your impressions of NFL ticket sale circumstances from the abnormal rather than the typical franchise situation—as in Washington, for example, where the situation resembles no other situation within the League.

A major contributing factor to the current interest in professional football has been our television policy—regional telecasts of the away games of each home team (which is not the most economic method of presenting games on television), outside games of other teams liberally offered, and a firm restraint with respect to telecasts which are or may be competitive with the actual game being played locally.

Over-exposure is a potential danger that we have watched carefully in the past decade. Only last December we included a question on it in a special public opinion survey conducted at our expense by Lou Harris. A cross-section of sports fans were surveyed in 1,991 households—as you know, a considerably higher sampling than in the widely accepted political polls—with the following result:

AMOUNT OF PRO FOOTBALL ON TV

[In percent]

	Total football fans	Men	Women
Too much	21	17	27
Too little	7	9	5
About right amount	71	73	67
Not sure	1	1	1

In relation to the over-exposure question, we have watched closely experiences in other sports. Here are some striking examples relating both to over-exposure (best described as too much TV) and to local telecasts of events:

Boxing.—We all remember the "Friday Night Fights," but how about the Wednesday Night Fights, the Saturday and the two Mondays? That is correct. At the peak of TV boxing popularity—from January 1953 to January 1955—there were five weekly network boxing telecasts. By May 1958 there were two, by September 1964 there were zero. The sport simply ate itself with overexposure.

Baseball.—In 1971, with local television available, the seven games of the major league baseball divisional playoff had a total of 74,596 unsold seats. An additional 7,963 went unsold for the sixth game of the World Series and another 4,846 for the seventh and deciding game of the Series.

Basketball.—The taxpayers of Nassau County built a modern arena in suburban New York City at a cost of $28,000,000. It opened last spring, although still not completely finished, to meet the demands of the fans who wished to see the surprising New York Mets in the American Basketball Association playoff. On Friday, May 12, a sellout 15,241 fans attended a playoff game. With more seats completed, there were 15,890 on May 15. Neither game was televised locally. Then, on May 20, for the seventh and deciding game for the ABA Championship paid attendance was only 10,484 with the game on television locally. Similar circumstances existed in Virginia and Utah—two of the ABA's strongest franchises—when games were televised locally.

A recent collegiate experience with the blackout is most startling. The Georgia at Tulane game on September 23, a regional NCAA telecast, was shown locally in New Orleans and prior to the day of the game we understand only 3,000 tickets had been sold for the 80,000-seat Tulane Stadium.

Contrary to popular public opinion, pro football is not without its own TV-induced attendance problems.

In 1970, the Baltimore Colts concluded the regular season with a record of 51 consecutive sellouts. Then with television available

in the Baltimore area from a Washington station, attendance dropped by 20 percent—10,500—for the divisional playoff game with Cincinnati. And for the more important Conference championship game with Oakland the following week in much better weather, 5,300 seats went unsold because of the same TV circumstances.

The above experiences highlight the myth that proclaims all important professional sports contests are sellouts.

There is another factor. Conservatively—and some fans in Washington would probably argue with the count because D.C. Stadium is not included—15 of the 26 NFL Stadiums are considered cold-weather playing sites. Others, like San Francisco and Oakland, are often plagued by rain in late season.

The "no-show" situation is one the NFL is constantly on guard against. Anyone who has watched NFL football on television—particularly games at night when sound carries—is most certainly aware of how much fan participation adds to the excitement and emotion of the sport and to the performance of the teams.

We do not want "no-shows"—persons who purchase tickets and then do not use them. And we will get them in ever-increasing numbers if local telecasts are made mandatory even under sellout conditions.

Consider some of these illustrations, all of which happened with home games blacked out:

The New York Giants each season average 2,000 no-shows per game. Last December 19, a cold, overcast Sunday, 15,134 persons who purchased tickets failed to attend a game with the Philadelphia Eagles.

The New York Jets had 42,525 no-shows for their seven games in 1971, including 16,275 for a game with the Miami Dolphins on rainy October 24. This is not an isolated experience. On November 10, 1968, 24,941 who purchased tickets stayed away from a game with Houston, and on December 3, 1967, there were 29,242 no-shows when the Jets played Denver on a cold, rainy day.

New England in the first year in a new stadium had 23,843 no-shows, including 11,137 as early as October 10 for a sellout with the Jets on a day of driving rain.

There are many, many more illustrations that could be made that occurred in recent seasons throughout the League—even in non-cold weather sites like Atlanta.

The point, however, is that, despite the popularity of professional football, there are many persons who purchase tickets and then do not attend games. The number would soar if games previously blacked out were announced for television, and it should be obvious that persons then would soon stop buying tickets.

In my opinion, the bill being here proposed would in essence be self-defeating. It would virtually assure that in a period of a few years' time there would be no such thing as a sellout and therefore no local television. At the same time it would have made non-buyers of former fans.

Stadiums would also be affected. Rentals are usually based on percentages of the gross. NFL teams ordinarily do not participate in parking income or concessions—which goes either to the stadium authorities or to the baseball tenant. Where they do, the stadium authorities usually receive a sizeable percentage.

As a result, seven NFL teams operate under stadium leases which either prohibit home telecasts or require landlord approval before any home game is telecast.

The city of Cincinnati is guaranteed $500,000 per year from parking at Riverfront Stadium—by a private business concern—no matter how many fans actually drive their cars to the games. This is a contract obviously based on persons showing up for the games, not just buying tickets.

Robert F. Kennedy Stadium in Washington, which is run by the District of Columbia Armory Board through an act of Congress, and which has only the football Redskins as a professional team to attract large crowds, also controls concessions, parking and advertising. Despite capacity crowds which now fill RFK to watch a winning team, there is little chance this would continue under the proposed bill. If ticket holders discover two days before a game that they can stay at home and watch on television or if every fan knows that he is guaranteed the right to see any game of his choice either at home or by visiting the Redskin's office at any time before 1:00 p.m. on Friday, in a few years both ticket sales, attendance, concessions and parking will be affected—to the serious detriment of the stadium itself.

Again and again, the point has been made by proponents of this bill that only games sold out 48 hours in advance would be affected and therefore the bill will do no damage to anybody. But human nature is such that when people get accustomed to having something free they are not likely to be enthusiastic about paying for it on other occasions. As one sports writer has described the present bill, it is a little like a Supermarket announcing that if it sells a certain amount of steaks by Friday, it will give them away over the weekend. Steak sales are not likely to be very promising for the first five days of the week.

There have been six Super Bowls played. The fourth and the sixth were in the city of New Orleans.

Each year after the first (in Los Angeles) we were asked if we were going to have a closed-circuit showing of the game at locations in the city in which it was going to be played so that local persons without tickets could see it on television.

Each time until last January we chose not to in the belief that such an undertaking would not be successful. After the fourth game (in New Orleans) a closed-circuit TV company filed suit against the NFL over our refusal to sell closed-circuit rights.

Last year we permitted that company and others to bid on the sixth game in New Orleans where fans had seen four of the five previous Super Bowls free on home TV.

The result was simply that persons did not buy what they had gotten free in the past. Though tickets were priced at $5 less than stadium tickets, only slightly more than 1,600 fans attended the closed circuit showing which had a total seating capacity of 14,000. The closed-circuit promoter lost more than $25,000 because he failed to understand the psychology of the fan who already had gotten something for nothing in the past.

If home games were to be telecast, many NFL member club radio contracts would be in jeopardy. Metromedia Radio, which has four of our member club contracts, indicated to me that "if blackouts were lifted" it might cause a situation where the club would have to purchase time from the stations to get the broadcasts on the air. Regional radio networks would have to be dropped because the cost factor doesn't justify continuing losses.

It is conceivable that the cancellation of regional radio networks could have seriously damaging effects on smaller radio stations because of a lack of professional football programming availability. It is also important to note that the member clubs participate in many local public service promotions with radio stations along their networks. Many of these promotions are charitable and this blackout measure could result in harming public service efforts for the future.

The 26 member club radio stations have invested over 3 million dollars in NFL game rights. Current ratings on radio broadcasts show an eighty percent drop in audience when the radio station must compete with a telecast of the same game. Wherever this bill applied, the very existence of these broadcasts would be seriously jeopardized.

In short, I think substantially every premise on which this bill proceeds is in error and that experience under it would prove just that. But by that time it will be too late.

I have talked a great deal. I think for a more personal appraisal of the impact of this bill on football clubs, I would like you to hear directly from the owners of the franchises who have accompanied me here today.

PRISON WORK-RELEASE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 15 minutes.

Mr. McKINNEY. Mr. Speaker, last Thursday, Congressman RICHARDSON PREYER and I introduced H.R. 16901 which removes a legal stumbling block from the effective operation of prisoner work-release programs.

In 1965, with the passage of the Prisoner Rehabilitation Act, Congress recognized that the rehabilitation of convicts was directly related to the job training they received in prison. If we were to stem the overwhelming tide of recidivism, clearly we had to develop job training programs for prison inmates, which would provide them with skills marketable in civilian life. The old license plate "make work" routine, while a vast improvement over "the rockpile" clearly did not relate to bona fide employment opportunities outside the prison workshop.

Thus the Attorney General, testifying before the House Judiciary Committee in 1965, recommended the establishment of a work-release program designed to give trustworthy prisoners the resources, guidance and employment skills necessary for their assumption of productive law-abiding positions in society. However, through legislative oversight, Congress failed to amend 18 U.S.C. § 1761, which reads:

> Whoever knowingly transports in interstate commerce . . . any goods . . . manufactured, produced . . . by convicts or prisoners . . . except convicts or prisoners on parole or probation . . . shall be fined not more than $1,000 or imprisoned not more than one year or both.

This restrictive statute, still on the "books," unquestionably contravenes the sense of Congress as expressed in the Prisoner Rehabilitation Act of 1965.

Let me emphasize that this situation is not simply a moot point of law. For in August of 1971, a Special Assistant for Legislative Affairs made clear the Department of Labor's position that State work-release prisoners were ineligible for employment under a JOBS contract, that an employer of a State or Federal work-releasee must be concerned with the criminal sanctions of 18 U.S.C. 1761, and that legislation would be required to give the State work-releasee the same rights to work at paid employment as a Federal prisoner.

Toward this end, Representative RICHARDSON PREYER and I have introduced our legislation to eliminate such restrictions. I am including an abridged version of an article written by Mr. Leonard L. Ris-

kin, entitled "Removing Impediments to Employment of Work-Release Prisoners." This publication, to be published in the Criminal Law Bulletin, vol. VIII, No. 9, in November, contains an excellent analysis of the legislative history of the problem.

REMOVING IMPEDIMENTS TO EMPLOYMENT OF WORK-RELEASE PRISONERS

(By Leonard L. Riskin)

(NOTE.—Mr. Ruskin is a member of the District of Columbia Bar, a general counsel to the National Alliance of Businessmen. The views set forth herein are not necessarily those of the National Alliance of Businessmen.)

Recent events have increasingly drawn attention to the plight of prisons and prisoners in the United States. Criminal offenders have been glorified and vilified, but their needs, and those of the community to which they relate, have not been met. While the great debate between recrimination and rehabilitation continues, most concerned observers seem to recognize the need, if not the means, to make productive persons of convicts.

The importance of a job in the process of rehabilitating convicts, as well as others outside the economic mainstream of American life, has recently gained the notice it deserves. For example, at the President's request, business leaders in 1968 formed the National Alliance of Businessmen to sponsor the Job Opportunities in the Business Sector (JOBS) program to find employment in the private sector for the hard-core unemployed. Basic to the design of this program, under which employers can be reimbursed by the government through a JOBS contract for extraordinary costs incurred in hiring and training the disadvantaged, is the requirement that the trainee be hired prior to any training or support.

Other examples of this recognition can be found in recent legislation designed to place welfare recipients into work and training programs.

In the corrections area, work-release programs are designed to provide employment to prisoners as a means of easing the transition to life on the outside; inmates are allowed to work at paid employment in the community, returning to confinement during their non-work hours. Such programs have been authorized for federal prisoners since 1965, by the Prisoner Rehabilitation Act,[1] but states began experimenting much earlier. Wisconsin's Huber Law of 1913 authorized work release for misdemeanants in county institutions. At this writing, 38 states have statutes authorizing work release programs for inmates of state or county or municipal institutions.

It is ironic that although states pioneered in work release, federal law discriminates severely against state programs by limiting employment possibilities of state work-release prisoners. These prisoners are prohibited from working for firms holding contracts "involving the employment of labor" with executive agencies. This is true even though the contract in question may be one designed to provide employment and training opportunities to the disadvantaged poor.

The second problem is that employers of state or federal work release prisoners are subject to prosecution for violation of a statute which makes it unlawful to transport in interstate commerce anything produced by convicts or prisoners.

This situation has not come about through anyone's wishes. Indeed, it serves no one's needs. The following is a proposal for actions by the Congress and the President which would remove the discrimination against state work release prisoners and the threat of criminal sanctions against employers of state or federal work release prisoners.

The story begins with the Act of February 23, 1887, now 18 U.S.C. § 436 (1970), which prohibited federal officials from hiring out the labor of prisoners confined for violation of federal law. In 1905, President Theodore Roosevelt sought to extend similar protection to state prisoners by prohibiting their employment by federal contractors. He issued Executive Order 325–A, which required that a "... stipulation ... forbidding the employment of persons undergoing sentences of imprisonment at hard labor which have been imposed by the courts of the several States, Territories or Municipalities having criminal jurisdiction," be included in all contracts "involving the employment of labor."

Federal regulations which implement the foregoing policies[2] indicate that the clause need not be inserted in contracts subject to the Walsh-Healy Public Contracts Act[3] and that it does not prohibit the employment of persons on parole or probation, Federal prisoners in work-release programs, or individuals who have been pardoned or who have served their terms.

The exemption for Federal work-release prisoners was added after the passage of the Prisoner Rehabilitation Act to remove an obstacle to its implementation.[4] But another federal statute[5] designed to protect against exploitation of convict labor has not been specifically amended by Congress to reflect the Prisoner Rehabilitation Act. It reads as follows:

1761 TRANSPORTATION OR IMPORTATION

(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than $1,000, or imprisoned not more than one year, or both.

It is against the foregoing examples of restrictions designed to protect convicts against exploitation, and to prevent competition in the open market of convict made and other goods that we must view the Prisoner Rehabilitation Act of September 10, 1965 which authorizes work-release programs for Federal prisoners if participation is voluntary and if

i. representatives of local union central bodies or similar labor union organizations are consulted;

ii. such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

iii. the rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is to be performed.

The results of the interaction between the above-described efforts to foster work-release programs, to protect against exploitation of convict labor, and to encourage private businessmen to hire disadvantaged poor people are best seen as interpreted by the U.S. Department of Labor.

In August, 1971 a special assistant for legislative affairs made clear the Department's position that state work-release prisoners were ineligible for employment under a JOBS contract, that an employer of a state or federal work-releasee must be concerned with the criminal sanctions of 18 U.S.C. § 1761, and that legislation would be required to give the state work-releasee the same rights to work at paid employment as a federal prisoners.[6]

RECOMMENDATIONS

1. State prisoners in work release programs should not be barred from employment by federal contractors if the particular state program includes measures to protect the convicts and the labor market such as those required in the Prisoner Rehabilitation Act.

The only conceivable justification for forbidding federal contractors to employ state work-release prisoners is that the state programs would not protect the prisoners and free labor against exploitation of convict labor. While some states are not required by statute to observe protective standards such as those set forth in the Prisoner Rehabilitation Act, an administrator of a work release program would be inviting trouble, particularly in times of high unemployemnt, if he ignored the labor union organizations or permitted his work releasees to displace employed workers or to receive rates of pay less than those paid for similar work in the locality. Moreover, the federal government is obviously capable of determining whether a given state or county work-release program meets the standards set forth in the federal law. The Bureau of Prisons is required to do so each time it makes a contract for a federal prisoner to take part in a state or local work-release program in the community in which the prisoner is to have permanent residence.[7]

2. Private sector employers of federal work release prisoners and state prisoners participating in state programs under conditions for protecting inmates and the labor market prescribed in the Prisoner Rehabilitation Act should not be burdened with the possibility of committing a felony by transporting their goods, wares, or merchandise in interstate commerce.

H.R. 15279

A bill which is designed to remove the discrimination against state work-release prisoners was introduced on June 1, 1972[8] by Rep. Frey. The purpose of the bill is "To clarify the intent of congress to exclude prisoners in work-release programs under the provisions of federal law forbidding the use of convict labor." By its terms, however, the bill deals only with laws prohibiting the use of such labor by "any agency or entity of the United States or under any contract made with such agency or entity." Accordingly, the bill does not affect 18 U.S.C. § 1761, *supra*, and should be amended to accommodate that law. Alternatively, 18 U.S.C. § 1761 could be amended to remove from its proscription items produced by federal work-release prisoners or state prisoners participating in programs embodying certain safeguards as discussed below.

But the Frey bill has another feature which makes enactment without amendment unlikely. It refers to state prisoners participating in "generally similar" work-release programs. Under such a loose standard, some objection is to be expected from organized labor and others concerned about state measures to protect against the exploitation of convict labor and the unfair competition of that labor with free market labor. The protective standards set forth in the Prisoner Rehabilitation Act, *supra*, were included therein at the request of AFL–CIO President George Meany.[9] It would appear advisable, then, to require a state work-release program to meet standards such as these if restrictions on employment of its work-release prisoners are to be removed. This could be accomplished by an amendment to the Frey bill.

The Frey bill attempts to affect all federal laws restricting employment of convict labor and ensure that both federal and certain state work-release prisoners can be employed thereunder. While congress has prohibited employment of convicts by certain government contractors, the prohibition against state work-release prisoners in all other government contracts is based upon Executive Order 325–A, *supra*. Accordingly, this prohibition could be lifted by another Executive

Footnotes at end of article.

Order, which would make clear that work release prisoners in state programs meeting federal standards, such as those set forth in the Prisoner Rehabilitation Act, are not to be excluded from employment by federal contractors.

The Congress is currently considering one bill which would encourage greater use of work-release programs [10] and another which would reorganize certain functions of the corrections system in order to provide greater flexibility in the treatment of prisoners.[11] Implementation of the recommendations made in this article is a necessary step in permitting accomplishment of the rehabilitative objectives of these bills. Moreover, such actions are necessary in order to bring harmony to the efforts of government which, on the one hand, are encouraging rehabilitation through work-release programs, and on the other discouraging employers from hiring work-release prisoners.

FOOTNOTES

[1] P.L. 89–176, 79 Stat. 674 amending 18 U.S.C. § 4082 (c) (2).

[2] 41 C.F.R. § 1–12.201 *et seq.*

[3] The Walsh-Healey Public Contracts Act, 41 U.S.C. § 35–45 (1970), which applies to government contracts for the manufacturing or furnishing of materials, supplies, articles and equipment in any amount exceeding $10,000, requires the inclusion in such contracts of a stipulation that "no convict labor will be employed by the contractor" in the performance of the contract. This restriction on convict labor is viewed by the Department of Labor as not prohibiting the employment of federal work-release prisoners or prisoners participating in state work-release programs which include measures to protect the convicts and the labor market such as those required in the Prisoner Rehabilitation Act. Letter from William L. Gifford, Special Assistant for Legislative Affairs to Rep. James R. Mann, June 4, 1969; letter from Ben P. Robertson, Deputy Administrator, Wage and Hour Administration to George R. Royer, Staff Attorney, Dana Corporation, Toledo, Ohio; Operations Handbook, U.S. Department of Labor Manpower Administration § 13 c00.

Other federal laws which proscribe employment of convict labor on government projects include:

(1) 39 U.S.C. § 2201 (1970) which prohibits the Postmaster General from making a contract for the purchase of equipment or supplies to be manufactured by convict labor, except with Federal Prison Industries.

(2) 49 U.S.C. § 1722 (c) (1970) which requires that all contracts for work on projects approved under that chapter (relating to Airport construction) include "such provisions as are necessary to insure (1) that no convict labor shall be employed."

(3) 23 U.S.C. § 114 (1970) relating to construction of highways located on a Federal aid system, which provides 114 . . .

(b) Convict labor shall not be used in such construction unless it is labor performed by convicts who are on parole or probation.

The author is unaware of whether the question of employment of federal or state work-release prisoners by contractors subject to these statutes has been raised.

[4] 32 F.R. § 10852, July 25, 1967.

[5] 18 U.S.C. § 1761 (1970).

[6] Letter from Frederick L. Webber, Special Assistant for Legislative Affairs, U.S. Department of Labor, to Rep. Richardson Pryor, August 27, 1971.

[7] U.S. Bureau of Prisons Policy Statement 7500.36, Feb. 6, 1969.

[8] H.R. 15279, 92d Cong., 2d Sess. (1972).

[9] S. REP. 613, 89th Cong., 1st Sess. (1965).

[10] H.R. 7106, 92d Cong., 1st Sess. (1971) introduced by Rep. Mikva.

[11] H.R. 13293, 92d Cong., 2d Sess. (1972), introduced by Rep. Railsback and by Sen. Percy as S. 3185.

AMENDMENT TO FEDERAL AID HIGHWAY ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 10 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, I take this opportunity to present to the House a copy of the amendment I propose to offer during the consideration of H.R. 16656, the Federal-Aid Highway Act of 1972. This is the text of my amendment which I commend to your consideration:

H.R. 16656 is hereby amended by striking section 119 in its entirety and substituting in lieu thereof the following:

SEC. 119. (a) Subsection (m) of section 131 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be apportioned to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $20,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973, and $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

SUBSIDIZED COMPETITION AND THE CHICAGO & NORTH WESTERN RAILROAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, more and more, Government subsidization of business and industry has resulted not in reduced costs for the consumer, but in the additional costs which a stifling bureaucracy and a lack of competition inevitably bring.

This point was made by Peter F. Drucker in his volume, "The Age of Discontinuity." He noted that—

The generation that was in love with the state 30 and 40 years ago believed fondly that government would be economical. Eliminating the "profit motive" was thought to reduce costs. This was poor economics, to begin with. If there is competition, profit assures accomplishment of a task at the lowest cost. It is a measure and an index of the most economical allocation of resources, that is, of the optimum in terms of costs as well as of results. This is the reason why the Communist countries are all rushing now to reintroduce profitability in their system.

Today the Chicago & North Western Railway Co.—C. & N.W.—runs the only commuter railroad in the country, as well as the biggest one, at a profit. In addition, since June 1 of this year, after Northwest Industries sold them its interest, the C. & N.W. has been owned by 1,000 of its 14,000 employees. This railroad has refused all Government subsidies.

What is now happening, however, is that this railroad is being faced with competition which is subsidized by the Federal Government. Discussing the obstacles to successful free enterprise, Shirley Scheibla, the distinguished Washington correspondent of Barron's, writes that—

Thanks to its profitability, the commuter service doesn't qualify for federal grants. To stay in the black, however, it has raised rates several times. Five major competitors serving Chicago commuters—Burlington, Northern, Illinois Central, Milwaukee Road, Rock Island and South Shore—all have left their fares unchanged; all receive federal grants; all are in the red. In the view of the Department of Transportaion, C & NW should not raise is rates, become unprofitable too and thereby qualify for federal aid. But C & NW, for reasons of its own, refuses to play by bureaucratic rules.

The management of this railroad realizes that its days as a profitmaking private enterprise are numbered. It wishes to sell, but at a price appropriate to a moneymaking concern. In the meantime, writes Mrs. Scheibla, the management—

Doesn't want government policies to plunge them into the red, or otherwise make it impossible to drive a good bargain. As a result, C & NW is bringing into question the whole system of federal grants for mass transportation and the obligation of the Department of Transportation to issue standards to assure equitability and due process to those who might be injured.

Our system has become one which subsidizes failure and scorns success. Some time ago the noted economist, Wilhelm Roepke, in his book, "The Social Crisis of Our Time," wrote of an economy which is becoming like our own:

An economic system where each group entrenches itself more and more in a monopolist stronghold, abusing the power of the state for its special purposes, where prices and wages lose their mobility except in an upward direction, where no one wants to adhere to the reliable rules of the market any more, and consequently where nobody knows any longer whether tomorrow a new whim of legislation will not upset all calculations . . . is not only bound to become unprofitable . . . but it will moreover in the end suffer a complete breakdown.

The case of the Chicago & North Western Railroad is a current illustration of this unfortunate and potentially destructive trend in our economic thinking.

I wish to share with my colleagues Shirley Scheibla's instructive article on this subject which appeared in Barron's of October 2, 1972. The article follows:

SUBSIDIZED COMPETITION: THE CHICAGO & NORTH WESTERN RAILROAD IS RUNNING INTO IT

(By Shirley Scheibla)

WASHINGTON.—Nobody, as the saying goes, shoots Santa Claus, and few have ever turned down a government hand-out. Now, however, a rare bird is causing consternation all the way to the White House by resolutely rejecting U.S. subsidies. It also is challenging the right of the federal government to damage private enterprise by giving them to others.

The maverick is the Chicago & North Western Railway Co. (C&NW), which is unique on other scores. It runs the only commuter railroad in the country—the biggest one, to boot—to operate at a profit. Moreover, since June 1 of this year, after Northwest Indus-

tries sold them its interest, the C&NW has been owned by 1,000 of its 14,000 employees.

ALL ABOARD

Thanks to its profitability, the commuter service doesn't qualify for federal grants. To stay in the black, however, it has raised rates several times. Five major competitors serving Chicago commuters—Burlington Northern, Illinois Central, Milwaukee Road, Rock Island and South Shore—all have left their fares unchanged; all receive federal grants; all are in the red. In the view of the Department of Transportation (DOT), C&NW should not raise its rates, become unprofitable too and thereby qualify for federal aid. But C&NW, for reasons of its own, refuses to play by bureaucratic rules.

C&NW President Larry Provo is convinced that all commuter railroads, including his own, willy-nilly will wind up in government hands. A lengthy interview with Under Secretary of Transportation James M. Beggs indicates that Mr. Provo is right. "My feeling is that probably local authorities will have to pay for regional transportation in their areas and that they'll buy out all commuter railroads," he declared.

HARD BARGAINER

Mr. Provo is ready to sell—but at a price appropriate to a money-making concern. Meantime, he doesn't want government policies to plunge him into the red or otherwise make it impossible for him to drive a good bargain. As a result, C&NW is bringing into question the whole system of federal grants for mass transportation and the obligation of the Department of Transportation to issue standards to assure equitability and due process to those who might be injured.

In the 1970 amendments to the Urban Mass Transportation Act, Congress projected outlays of $10 billion over the next 12 years and authorized federal grants of $3.1 billion in five. In 1971 and 1972, DOT doles out money at the rate of $1 billion annually. Even so, the funds apparently aren't going far enough: DOT has applied for $4 billion in the current fiscal year.

In handling such large sums, DOT clearly needs some standards. Yet, as the C&NW case brings out, none has been issued since the grant program started with passage of the Urban Mass Transportation Act in 1964.

This differs greatly from the form usually followed whenever the government launches a program likely to have a major economic impact. SOP is to implement the program by regulations through formal rule-making proceedings. Proposed rules are published in the Federal Register, and all interested parties are given an opportunity to comment and request an oral hearing before the rules are laid down. Asked why DOT failed to follow this procedure, Mr. Beggs replied, "I suppose we should have."

DYNAMIC DUO

Hence the case of the C&NW deserves more attention than it seems to have received. The railroad has been operating suburban services, generally at a loss, for at least a century. Then in 1956, a new management team headed by Ben Heineman, who had just turned around a smaller road, took over. He also brought with him a dynamic 28-year-old, Larry Provo, who became comptroller and vice president. The new team saw the chance to break even on the suburban services by modernizing it. C&NW began buying bi-level, high-capacity air-conditioned cars, reduced the number of trains, closed many stations in Chicago where C&NW competed with the Chicago Transit Authority (CTA), installed diesel engines, speeded up operations, sold tickets by mail, and aggressively promoted its services among commuters.

By 1959, the service showed a profit of $10,000. By 1963, that figure rose to $200,000. Passage of the Urban Mass Transportation Act of 1964 had no immediate effect on C&NW. Grants were not dispensed until 1965, totaling only $130 million for the entire U.S. that year. Profits of C&NW's commuter service continued to grow. Then, in 1967, the CTA sought a federal grant of $56 million under the Act to buy equipment and build track in the median strip of the Kennedy Expressway as far as Jefferson Park, 9.5 miles from downtown.

C&NW immediately opposed the move on the grounds that it would parallel existing track and thus constitute federally-subsidized competition. The company, indeed, raised such a row in Washington that the Johnson Administration refused to make the grant unless CTA agreed to limit the adverse impact. Accordingly, CTA agreed not to build parking lots along the line with capacity for more than 400 cars, and to construct escalators and stairways connecting the new CTA platforms at Jefferson Park with those of C&NW. Most importantly, it agreed not to extend the CTA lines beyond Jefferson Park.

Meantime, earnings of the suburban service reached $2.4 million in 1968. By then the curious from all over the world were going to Chicago to see how anyone could run a commuter railroad at a profit. Visitors included official representatives from Japan, India, Nationalist China, Australia, Germany, Spain, France, Italy and several South American countries, all with government-owned railroads. Despite a whopping loss in 1969 of $15 million for the entire railroad, owing to heavy snows and floods, the commuter service showed a profit of $2.2 million. Then, on February 1, 1970, CTA opened its new line to Jefferson Park.

During 1970, C&NW lost half of its business—half a million riders—from its five stations served by the new CTA lines, at a cost of $300,000. That year C&NW raised its fares 5%. In sworn testimony before the Illinois Commerce Commission, Harold A. Lenske, director of commuter and passenger services for C&NW, said that his road lost another 250,000 passengers to the new CTA lines in 1971, for a revenue loss of approximately $450,000.

Last year C&NW raised fares again, by 7% (Mr. Lenske attributes 2% to the loss of riders to CTA the previous year). Mr. Provo points out that CTA is not C&NW's only federally subsidized competition, since all the other carriers serving Chicago have opted for government support. He told Barron's, "Lines subsidized by the Department of Transportation go in the same three directions we go. Even though they do not go as far, it affects us because DOT provides park and ride facilities at the end of the subsidized routes."

MAY CUT DOWN ON SERVICE

C&NW sought to increase fares by 7% again this year, but won approval for only 5½%. Consequently Mr. Lenske says C&NW is now considering cutting down on the suburban service which has been expanding since 1959. By October or November, he expects a company decision on whether to seek permission from regulators to end hourly midday service and trains leaving Chicago after midnight (which, he adds, could take a year or two).

Meantime, on June 1 of this year, the parent company, Northwest Industries, sold C&NW to 1,000 of its 14,000 employes and Larry Provo took over from Ben Heineman as chief executive. According to C&NW Comptroller Gilbert Carr, Northwest Industries was dissatisfied with the rate of return on invested capital. The employes bought C&NW for $3.6 million.

Net income for the suburban service skidded to $1.9 million in 1970, for a rate of return of 3.9% and to $1.6 million in 1971 (a return of 3.7%). In the aforementioned testimony requesting the 7% hike, Mr. Lenske stated, "We can only anticipate that this diversion of riders from our service will continue. North Western cannot compete with fares charged by this publicly-owned transit authority. . . ." As an example of fare differentials, Mr. Provo says, "Our price to Wilmette is $1.10, and CTA's is 60 cents."

Nevertheless, at the end of 1971, DOT announced a grant of $53 million to CTA for 500 buses, 100 rapid transit cars and other related improvements. On May 31, 1972, the entire Republican Illinois Congressional delegation requested DOT Secretary Volpe to suspend the grant and turn down a CTA application for an additional $27 million, pending the development of a proper plan as required by law. The delegation pointed out that the Urban Mass Transportation Act requires "a finding that the region where the grant is to be made has 'a unified or officially coordinated urban transportation system.' One of the purposes of this provision was to assure that federal grants to public bodies would not injure private operators. The Chicago metropolitan area has no such system and obviously has no provision for protecting the interests of a successful private transit operator such as the North Western and the public which it serves."

VOLPE'S REPLY

At first Secretary Volpe told the Congressmen that it was up to the Secretary of Housing and Urban Development to make such a determination. But on June 29, he wrote them that the law requires that a grant must be needed for "a program, completed or under active preparation, and meeting criteria established by me in consultation with the Secretary of Housing and Urban Development. . . ."

He went on to say: "I deplore any adverse economic impact on any private mass transit carrier. . . . However, I cannot, in good conscience, deprive the millions of people residing in the Chicago metropolitan area of the benefits of the federal urban mass transportation program merely because one railroad company anticipates the possibility of future economic harm as a result of a project which does not change the scope or level of CTA service."

MASS MERGER

Secretary Volpe explained that if he suspended the grant to CTA, he also would have to suspend grants already approved for privately-owned railroads. The latter took the hint; on July 10, Chicago's five other major commuter railroads wrote the entire Illinois Congressional delegation, urging them not to press for discontinuance of grants. "Work is in progress to devise another way, and plans are being promoted by commuter railroads to accomplish this," they said.

But when it appeared that their grants no longer were in jeopardy, the five roads joined with C&NW in endorsing the so-called CMATS bill pending in the Illinois legislature, which would merge all commuter railroads, suburban and municipal bus lines and the CTA into a Chicago Metropolitan Area Transportation System (CMATS) by acquisition lease or contract within two years.

Mr. Provo wants to sell the C&NW commuter service to the CMATS. But, according to Rep. Philip Crane (R., Ill.), no regional plans are apt to get anywhere without the support of Chicago Mayor Daley, who opposes them because they would diminish the importance of the CTA, which he controls.

At the moment the only CTA application pending at DOT is the aforementioned one for $27 million, approval of which seems likely. According to DOT, that and the already approved $53 million "are the beginning of a 20-year program to modernize the entire system."

But CTA has much more than modernizing in mind. Apparently it intends to ignore its agreement not to go beyond Jefferson Park and extend its lines from there to O'Hare airport. On February 3, 1972, The Chicago

Sunday Times reported Mayor Daley told a press conference he doesn't consider the agreement binding forever, and that CTA, despite protests by C&NW, will go to O'Hare.

END OF THE LINE?

C&NW Commuter Service Director Lenske says that the extension will mean a loss of 10 times the volume C&NW lost when CTA went to Jefferson Park. DOT has not challenged such statements.

No happy solution is in sight for Secretary Volpe. If he holds up funds for CTA and insists on a regional plan, he undoubtedly will antagonize one of the nation's most powerful mayors close to election time.

On the other hand, nobody will be happy if Secretary Volpe's programs impair the finances of C&NW, a threat which all hands agree is real. While C&NW says the commuter lines contributed only 7% of total revenue last year, they furnished $1.7 million out of total systemwide net income of $4.4 million. Presumably any substantial loss for the commuter service could throw all operations into the red. Mr. Provo told Barron's, "What happens on commuter service can determine whether C&NW stays alive."

FIRMS "SABOTAGE" CONSUMER PROTECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am publicly releasing today the names of nine food and drug companies who have consciously sabotaged the Food and Drug Administration's efforts to remove contaminated and dangerous food and drugs from the shelves.

These nine companies were cited but not specifically identified in a recent General Accounting Office report which was broadly critical of FDA's lack of authority to protect consumers and also noted the unwillingness of companies to voluntarily cooperate in removing contaminated goods from the shelves.

I requested the names of the nine firms from both the FDA and the GAO. Both agencies have been fully cooperative and the FDA has provided me with the list of the nine firms.

These nine firms have obstructed, frustrated, and attempted to sabotage FDA efforts to protect American consumers.

For example, after it was discovered that Mrs. Smith Pie Co. of Pottstown, Pa., was using eggs containing salmonella, a bacteria which can cause illness and even death, the FDA attempted to obtain the bakery's quality control records. But Mrs. Smith Pie refused FDA access to the records and the FDA was unable to determine whether the pie contained the dangerous bacteria or not. In fact, FDA does not even know whether the tests for this harmful and possibly deadly bacteria were ever conducted by Mrs. Smith Pie Co.

In another example, the Parke-Davis Drug Co. of Detroit, Mich., refused to accept an FDA finding that a heart stimulant drug was superpotent and considered a potential health hazard. Finally, after 111 days, Parke-Davis accepted FDA's findings and began recall of the superpotent drug.

But in the meantime, 84,000 dangerous pills had been sold and FDA was unable to recover 42 percent of the amount distributed. The result is that thousands of individuals were exposed to this hazardous drug.

One firm, the Cedar Lake Food Co. of Cedar Lake, Mich. sold 59 percent or 51,000 pounds of flour contaminated by rodents.

Laser Inc., Crown Point, Ind., sold 3,960 ineffective thyroid capsules which the FDA did not have the authority to detain. Modern Macaroni Co. in Honolulu, Hawaii manufactured noodles in an insect-rodent infested plant. Only 19 percent of the noodles manufactured by the Hawaiian firm in their rat-infested plant were ever recovered by the FDA in their attempted seizure.

In Philadelphia, a hospital supply company, the American Hospital Supply Co.'s Harleco Division recalled approximately 20 of its products but permitted FDA to review only four of the recalls. No one knows exactly what was wrong with these products or if all of the drugs were ever recovered.

The four products that FDA was permitted to review were recalled because of mold growth, decomposition, chemical defects, and labeling errors.

Other firms also frustrated an attempt to sabotage the FDA's protection of consumers.

The Guerra Nut Shelling Co., of Hollister, Calif., refused to provide FDA with shipping data on walnuts contaminated with certain bacteria. The Stayner Corp. of Berkeley, Calif., produced a prescription drug that failed Federal standards of dissolution and was considered, according to the GAO, "a moderate to serious health hazard." Despite the FDA's efforts, 75,000 of the potentially dangerous tablets reached the public.

Mr. Speaker, I am calling on all of these nine firms to offer to the American consumer a plausible explanation of why they have attempted to subvert FDA's attempts to protect the average buyer.

I am also requesting that each of the firms fully cooperate with the FDA in the future and not repeat any options that may result in the sale of contaminated or dangerous food and drugs.

Every consumer has a right to know who is peddling defective products and I am pleasantly surprised that the GAO and the FDA are cooperating in this effort.

The list of the companies follows:

LIST OF FIRMS REFERRED TO IN GAO REPORT ENTITLED "LACK OF AUTHORITY LIMITS CONSUMER PROTECTION: PROBLEMS IN IDENTIFYING AND REMOVING FROM THE MARKET PRODUCTS WHICH VIOLATE THE LAW"

PAGE, EXAMPLE, AND COMPANY (NAME AND ADDRESS)

11; A; Nationwide Chemical Company, 1478 Wharton Way, Concord, California.

11; B; Guerra Nut Shelling Company, 190 Hillcrest Road, Hollister, California.

12; C; Mrs. Smith's Pie Company, Charlotte and Water Streets, Pottstown, Pennsylvania.

12; D; Harleco Division of American Hospital Supply, 60th and Woodland Avenue, Philadelphia, Pennsylvania.

21; E; Cedar Lake Foods, Cedar Lake, Michigan.

21; F; Laser Incorporated, 2000 N. Main Street, Crown Point, Indiana.

21; G; Modern Macaroni Company, Ltd., 1708 Mary Street, Honolulu, Hawaii.

28; H; Parke, Davis and Company, Detroit, Michigan.

29; I; Stayner Corporation, Berkeley, California.

RAY KROC'S BIRTHDAY PRESENT TO AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, Mr. Ray Kroc, chairman of the board and founder of McDonald's, celebrated his 70th birthday this past Saturday, September 30. Unlike most birthday celebrants, Mr. Kroc chose to give rather than to receive a gift. In the company of his lovely wife, Joan, and his many friends, it was announced that Mr. Kroc was donating, personally and on behalf of the Kroc Foundation, a total of $7½ million to institutions throughout the country. The city of Chicago was fortunate to have been the chief beneficiary of his generosity, with six of the city's most deserving institutions receiving birthday gifts from Mr. Kroc.

The Field Museum of Natural History received $450,000 in the name of Ray and Joan Kroc for their "Man and His Environment" program, a program which will have nationwide exposure. The Adler Planetarium benefited from a $285,000 gift which will assist its "Universe Theater" project as well as completing its capital funds program. The Lincoln Park Zoo will receive $780,000 to be used for its animal hospital and animal commissary and for the zoo's Great Ape House.

Children's Memorial Hospital will acquire $500,000 for research in genetics and Northwest Memorial an equal amount for prenatal and postnatal research. Mr. Kroc has given the Ravinia Festival Association $200,000 for their excellent musical programs. And the Pace Institute at Cook County Jail will receive $1 million to further their work in the area of criminal rehabilitation.

Mr. Speaker, one could well say that Mr. Kroc is donating $100,000 for each of the 70 years of his life. This is not the first time he has assisted others. The Kroc Foundation has, for many years, benefited medical research in the areas of arthritis, diabetes, and multiple sclerosis. And it is a well-known fact that Mr. Kroc is particularly proud of McDonald's continued support of the Boy Scouts of America through the organization's Project SOAR—save our American resources—a national program to beautify America.

Mr. Speaker, I am proud of this Chicagoan who has done so much for our city. Successful in the business world, Ray Kroc has not forgotten the city of his birth. He has been generous in returning his gratitude to Chicago. I recently had the opportunity to meet Ray Kroc at a function in Chicago and was impressed by his wide range of experiences and his generous personal credo.

Born in Chicago, Kroc, a high school dropout, falsified his age to join the Red Cross Ambulance Corps during World War I, serving in the same company as the late Walt Disney. After the war, he returned to Chicago where he decided to pursue a musical career. Kroc became

music director for WGES, one of Chicago's pioneer stations.

Later, Kroc spent a short time in Florida during the real estate boom, but when the boom collapsed, he headed back to Chicago. There he decided to make his career in sales and went to work for the Lily-Tulip Cup Corp., in which he served as the Midwest sales manager for 17 years. Staying with sales, Kroc became exclusive salesman for a new invention, a milkshake "multimixer." During this time, he visited a restaurant in California which had purchased eight of his multimixers. The restaurant was owned by two brothers named McDonald, and Kroc decided that a chain of these restaurants would buy a lot of his multimixers. Kroc started his own hamburger outlets under a royalty arrangement with the brothers, whom he has since bought out. When McDonald's restaurants began appearing across the country, a new era of food service was under way. It soon became obvious that Kroc's future was in the restaurant, and not the multimixer, business. The rest is history.

By mid-1972, the number of McDonald's restaurants throughout the country and in Japan, Australia, the Caribbean, and Europe exceeded 2,000. Anticipated sales for all licensed and company-owned stores in 1972 are $1 billion. McDonald's has sold more than 10 billion hamburgers.

I am sure that I speak for the entire Chicago delegation when I thank Mr. Kroc for his birthday gift and for his continuing generosity. Mr. Kroc evidently decided that Chicago "deserved a break today" and saw to it that Chicago's finest institutions received it. We are proud and happy that this far-sighted and generous Chicagoan is one of our people and wish this inspiring American a very "happy birthday" indeed.

SOCIAL SERVICES CEILING IN REVENUE-SHARING BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, I have been a supporter of the revenue-sharing bill from its inception. My own city and State of New York—as well as many other areas, especially urban areas, of the Nation—are desperately in need of additional funds in order to fund adequately the basic services which they provide to their citizens. I think that revenue sharing is something that we must and should have.

Unfortunately, the revenue-sharing bill has emerged from the conference bearing a cruel appendage. The substitute amendment, "amendment No. 20," would cripple child care and other essential social services receiving Federal financial assistance, and would take back with one hand what the rest of the bill gives with the other.

The amendment would do the following:

First. Limit total annual expenses for child care, family planning, services to the mentally retarded, drug and alcoholism treatment services, and foster care services to $2.5 billion, to be allotted to the States on the basis of their total population. For fiscal 1972—just ended—$1.6 billion was expended in this category, but the figure for fiscal 1973 is expected to be in the neighborhood of $4.8 billion. The $2.5 billion limitation would take effect July 1, 1972, thus taking back funds already spent or irrevocably committed.

Second. Require that no more than 10 percent of federally funded social services other than those enumerated in section 1130(b)(2) of the substitute proposal—this includes child care services to nonworking mothers—be for individuals not receiving welfare under a federally aided program—aged, blind, disabled, families with dependent children.

Third. Eliminate the 75 percent Federal matching for emergency social services—for example for victims of disasters.

There are in New York City 332 existing child care centers serving 30,000 children. In addition, 90 more centers are under construction and scheduled for opening between now and next June. The New York City Agency for Child Development informs me that at least one-third of these centers will either be closed or forced to curtail their services if amendment No. 20 is enacted into law. What this means is that in New York City alone, about 40,000 children will lose out because of this provision.

Having recently approved legislation appropriating around $75 billion for the instruments of death and destruction, it would be shameful for us to turn around and tell working mothers and their children, the mentally retarded, people addicted to alcohol and drugs, and homeless children that they cannot have 3 percent of that figure to try to make a whole life for themselves.

We have been hearing a lot of talk recently—much of it from some of the principal supporters of this amendment—about the need to have everyone working.

How can a mother work if she has no place to leave her young children?

How can a mentally retarded individual work if there is no place for him to receive the special training necessary to make him employable?

How can an alcoholic or a drug user work if there are no programs available to help him break the chains of addiction?

The logic of this amendment escapes me and thousands of other people all over the country who are waking up to the fact of its heartlessness. I hope that my colleagues will also experience such an awakening and vote this amendment down when it comes before the House.

ST. FRANCIS HOSPITAL: 75 YEARS OF COMMUNITY SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, on October 19, 1972, St. Francis Hospital in Hartford, Conn., a teaching hospital affiliated with the University of Connecticut Medical-Dental School, celebrates the 75th anniversary of its founding in 1897.

The day before this historic occasion, St. Francis will dedicate its newest medical-surgical wing, the McGovern Pavilion.

The opening of the McGovern Pavilion represents the successful culmination of a 10-year development program supported by thousands of Greater Hartford citizens. Many of these people are former patients who went out into the community to tell of the great work of St. Francis Hospital,

St. Francis Hospital in Hartford began in 1897 when the Most Rev. Michael Tierney, bishop of the Hartford diocese, listened with approval to the opinions of a group of Hartford physicians who felt that there was need of a second hospital in Hartford. The only hospital then in existence in the city was Hartford Hospital, which was overutilized and had a lengthy waiting list.

Bishop Tierney knew that what he most needed to insure the success of the new venture was a community of nursing nuns to staff the hospital. He undertook negotiations with the sisters of St. Joseph of Chambery, a religious order founded in France in 1650 and dedicated to nursing, teaching, and the care of the old. He was successful in his plea and was promised that a small group of sisters would come from France, stopping first at Lee, Mass., where they had already established a foundation, and proceeding then to Hartford.

Heading this group of pioneers would be the first director of Saint Francis Hospital, Mother Anne Valencia, whose name even 75 years later is known, respected, and loved.

In its first year of existence, the new hospital cared for 314 patients By 1907, its 10th year, 2,442 patients had been cared for. The latest figure for in-patients cared for is over 25,000 in the last fiscal year.

In its first year of existence, the hospital had room for 32 patients. With the opening of its new medical-surgical wing, it can now accommodate 750 patients.

Giving flesh and blood to the statistics are the people and the services they render or provide.

Due appreciation must be given to the four dedicated and selfless religious women who have served Saint Francis Hospital as administrators:

Mother Valencia who served from 1897 to 1936;

Mother Xavier who served from 1936 to 1945;

Mother Bernard Mary who served from 1945 to 1962; and

Sister Mary Madeleine, present administrator, who began her term of office in 1962.

The contributions of the distinguished Roman Catholic prelates who served as president of the hospital's board must also be noted:

Bishop Michael Tierney; Bishop John Nilan; Bishop Maurice McAuliffe; Arch-

bishop Henry J. O'Brien; and the incumbent, Archbishop John F. Whealon.

Appreciation must also be given to: The Woman's Auxiliary of Saint Francis Hospital which, since its founding in 1926, has given over $1½ million to the hospital and to the Saint Francis Hospital Association which, in its 16 years of existence, has raised half a million dollars for medical education and research programs conducted at the hospital.

A steady growth in quality patient care, in ongoing medical education programs for residents and interns, in continuing educational programs for nursing and paramedical personnel, in community-oriented, medicine has distinguished the 75 years now being celebrated by St. Francis Hospital.

A hospital, fully accredited by the Joint Commission on the Accreditation of Hospitals since the inception of that program in 1951, St. Francis Hospital's sensitivity to the advances in medical science is manifested, among other achievements, by: its early establishment, in 1959, of an intensive care unit; its successful performance, in 1960, of open-heart surgery; its installation, in 1962, of a cobalt therapy unit; its establishment, in 1965, of the first coronary care unit; and its establishment, in 1971, of the first respiratory care unit in the State of Connecticut.

It seems, therefore, that St. Francis Hospital has truly lived up to the statement written in the charter granted it in 1897, by the State of Connecticut:

St. Francis . . . a hospital in the City of Hartford, into which sick or injured persons may be admitted and cared for, and receive medical and surgical aid and treatment, without regard to the nationality, creed or beliefs of such persons.

It is with great pride that I present this outstanding record of service for the edification of my colleagues.

I know that all Members of Congress will join with me in saluting the achievements of this great hospital.

COAL MINE SURFACE AREA PROTECTION ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MELCHER) is recognized for 5 minutes.

Mr. MELCHER. Mr. Speaker, in the remaining days of this session, I would urge my colleagues not to overlook or underestimate the urgency and significance of the need to enact legislation to regulate the surface mining of coal. The public is demanding it and the industry is on record endorsing the need for legislation in this Congress.

For more than a year the House Interior and Insular Affairs Committee has been working on legislation to bring into balance the protection of our lands and waters and the production of coal by surface mining, which now accounts for approximately one-half of the total U.S. production. I am confident that the bill reported out of the House Interior Committee, H.R. 6482, the Coal Mine Surface Area Protection Act of 1972, originally introduced by Mr. HAYS, of Ohio, is a balanced piece of legislation which will provide an equitable and strong regulation of surface coal mining to assure that the land is reclaimed to as good or better conditions than before mining.

Surface coal mining is fast becoming a national issue which can no longer be ignored. Strip mining is going on in 26 States at a growing rate. No one is arguing against the need for continued coal production. The question for debate is whether we as a Congress and as a Nation are willing to sacrifice unnecessarily our lands and waters, private and public, for a mining practice without insisting on protection of our natural resources. Where the land cannot be reclaimed the strip mining should not be allowed. And this legislation, H.R. 6482, provides the procedures and mechanisms by which to determine whether an operator can fulfill his reclamation plan.

It is important to stress that this bill does not abolish surface coal mining. It is a regulatory bill. H.R. 6482, which will come up for consideration under suspension, no longer contains a provision which would have prohibited the removal of overburden on slopes greater than 20 degrees from the horizontal. On September 27, the House Interior Committee modified this provision substantially, and with the concurrence of the mining industry and environmental groups.

As reported out of the Interior Committee, unanimously and favorably, H.R. 6482 contains a provision which would require the operator to affirmatively demonstrate that "sedimentation, landslides, or acid or mineralized water pollution can be feasibly prevented and that the areas can be reclaimed as required by the provisions of this act." Section 9(b) does not prohibit removal of overburden, but retains the requirement that the burden of proof be placed on the operator to demonstrate that the land can be reclaimed in accordance with the provisions of the act.

Section 9(b) states the following:

(b) If the Secretary finds that the overburden of any part of the area of land described in the permit application is such that deposits of sediment in streambeds, landslides, or acid or mineralized water pollution in violation of State and Federal water quality standards, whichever is higher, cannot feasibly be prevented, he shall delete such part of the land described in the application upon which such overburden exists; provided that no such overburden will be removed from slopes greater than 20 degrees from the horizontal, unless the operator can affirmatively demonstrate that sedimentation, landslides, or acid or mineralized water pollution can be feasibly prevented and that the areas can be reclaimed as required by the provisions of this Act.

Based on Bureau of Mines data, a ban on removal of overburden on slopes greater than 20 degrees would affect approximately one-half of contour mining production, or approximately 13 percent of all coal production, which supplies approximately 5½ percent of the fuel for electric power generation. This bill, however, does not abolish surface mining on slopes greater than 20 degrees. It simply establishes a specific burden of proof on the operator to affirmatively demonstrate that the provisions of the act can be met. And this requirement is necessary because most of these slopes are sensitive areas where landslides and massive sedimentation have been well documented as resulting from surface mining operations. The industry has maintained that it can surface mine responsibly in these areas. This provision does not challenge industry claims. Rather it insures that all operators must first demonstrate that certain adverse environmental effects can be avoided.

Some spokesmen would have us believe that we must choose between our land and our lights. This is not the central issue and is not true. This bill is a regulatory bill which will assist those States currently penalized for demonstrating leadership in enforcement efforts. These States must be buttressed in their regulatory efforts through enactment of H.R. 6482. I am reminded of the testimony before the House Interior Committee during the 1971 hearings by Mrs. Anne Bowers, of Louisville, Ky. When questioned about meeting the energy requirements of the country, her reply echoed the plea of the Nation to this 92d Congress:

It is your business to find a way to handle this so that I can turn on my dishwasher without feeling I am tearing down another mountain.

This bill, H.R. 6482, will not interfere with coal production to meet this Nation's energy requirements. By enacting H.R. 6482, this Congress could achieve a balance between coal production and protection of our natural resources. Of all the facets of the energy issue, surface coal mining is among the easiest understood by the public and is certainly among the most visible. And I urge my colleagues not to be deaf to the cries of the public seeking relief. We cannot afford further delays in the enactment of this legislation. I urge my colleagues to vote favorably for H.R. 6482.

SOVIET JEWRY, FREEDOM OF EMIGRATION, AND EAST-WEST TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, I am pleased to announce today that 70 Members of the House of Representatives have joined in introducing legislation to bar most-favored-nation status or special trade privileges to any country in East-West trade until such time as that country eliminates its repressive and discriminatory emigration policies.

Identical legislation has just been introduced today in the Senate by Senator JACKSON and is cosponsored by 65 Senators—an overwhelming majority of the Senate.

The House has already expressed its will and intent on this matter. On September 21, an amendment was added in the House to the foreign aid appropriation bill barring the use of Export-Import Bank and Overseas Private Investment Corporation loans, guarantees and trade assistance to any country with repressive emigration policies. The House has demonstrated that it does not want to encourage or engage in trade with a nation which is in the business of bartering human lives.

Today's legislation will include limitations on the full spectrum of trade devices and mechanisms used to finance international trade and investment. It is not an East-West trade bill. It is a bill to ban preferential East-West trade with nations—such as the Soviet Union—that engage in discriminatory and repressive emigration policies. Once these policies are dropped, then the way will be open for consideration of most-favored-nation legislation, commercial agreements and participation in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees.

This bill will be referred to the House Ways and Means Committee. It is clear from the number of Ways and Means Committee members who are already cosponsoring this legislation, that an East-West trade bill will not be enacted until these inhumane emigration restrictions are deleted by the Soviet Union.

For example, as a Ways and Means member myself, I have in the past sponsored East-West trade legislation, since I believe that would be helpful in improving relations between our Nation and the nations of the Eastern bloc.

But this is a time for moral outcry. We cannot accept trade with a nation which is holding certain minority groups hostage. At the present time, the Soviet Union is requiring up to $37,000 in payment for the right to emigrate. This requirement is directed almost entirely against a minority which is seeking cultural and religious freedom. I have therefore announced my withdrawal of support of East-West trade until such restrictions on the part of the Soviet Union are removed. Today's bill bans such trade agreements until such restrictions are eliminated.

I am most pleased with the large numbers of cosponsors which we were able to obtain on such short notice. I know that there are many other Members who are interested in this legislation, and we will be introducing additional bills with additional cosponsors on an almost daily basis.

But the introduction of this bill in the House, and the introduction by 66 Senators of the same bill is a clear statement—a telegram—to the Kremlin that the people of the United States and their Congress will not stand for the atrocities and repression being carried out in the Soviet Union.

The cosponsors and bill are as follows:

LIST OF COSPONSORS

Mr. Vanik (for himself) and Mrs. Abzug, Mr. Addabbo, Mr. Anderson of Tennessee, Mr. Annunzio, Mr. Badillo, Mr. Begich, Mr. Bell, Mr. Biaggi, Mr. Brasco, Mr. Buchanan, and Mr. Burke of Massachusetts.

Mr. Carey, Mr. Celler, Mr. Corman, Mr. Coughlin, Mr. Cane, Mr. Daniels, Mr. Delaney, Mr. Dellums, Mr. Diggs, Mr. Dow, Mr. Drinan, and Mr. Edwards of California.

Mr. Eilberg, Mr. Fish, Mr. Forsythe, Mr. Fraser, Mr. Fulton, Mrs. Grasso, Mr. Gray, Mr. Green of Pennsylvania, Mr. Halpern, Mr. Helstoski, Mr. Karth, Mr. Koch, and Mr. Kyros.

Mr. Leggett, Mr. Lent, Mr. Long of Maryland, Mr. Macdonald, Mr. Madden, Mr. Mikva, Mr. Minish, Mr. Mitchell, Mr. Moss, Mr. Nix, and Mr. O'Neill.

Mr. Patten, Mr. Pepper, Mr. Peyser, Mr. Podell, Mr. Price of Illinois, Mr. Pucinski, Mr. Rangel, Mr. Rees, Mr. Reuss, Mr. Rodino, Mr. Roe, and Mr. Rosenthal.

Mr. St Germain, Mr. Sarbanes, Mr. Scheuer, Mr. James V. Stanton of Ohio, Mr. Stokes, Mr. Van Deerlin, Mr. Vanik, Mr. Vigorito, Mr. Waldie, Mr. Widnall, and Mr. Yates.

H.R. 17000

A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act for Freedom of Emigration in East-West Trade."

SEC. 2. To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, after October 15, 1972, products from any nonmarket economy country shall not be eligible to receive most-favored-nation treatment, such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to emigrate;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice,

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

SEC. 3. After October 15, 1972, pursuant to any separate Act of Congress, (A) products of a nonmarket economy country may be eligible to receive most-favored-nation treatment, (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, or (C) the President may conclude a commercial agreement with such country only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of section 2. Such report with respect to such country, shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, semi-annually thereafter so long as such treatment received, such credits or guarantees extended, or such agreement concluded pursuant to any separate Act of Congress is in effect.

Mr. PUCINSKI. Mr. Speaker, I am pleased to join today in cosponsoring this resolution which would deny to the Soviet Union credits by the United States if the Soviet Union persists in its very cruel practice of extracting unconscionable costs from Jewish intellectuals who wish to leave the Soviet Union.

It occurs to me that if the Soviet Union wants to take advantage of American credit, the least that the Kremlin can do is adopt a civilized code of conduct toward its minority groups.

I believe the Soviet practice of forcing Jewish intellectuals to pay exorbitant taxes in order to leave Russia is cruel and unconscionable.

I do not see how the United States can possibly continue to do business with the Soviets so long as this practice continues.

I would prefer if the October 15 date which appears in this resolution would be dropped from this resolution when the measure comes before us in Congress.

It occurs to me that the provision of the October 15, 1972 effective date provides a built-in "grandfather" clause which in effect means that any details involving credit made prior to October 15 would not be subject to the limitations of this resolution.

I am advised that the Soviet Union has already consumed approximately $250 million of the $750 million extended by America to the Russians under the original trade agreement.

It occurs to me that perhaps as much as another $250 million of wheat purchases with American credit can be negotiated prior to October 15 and it is entirely possible that with this kind of "escape clause," the Soviets conceivably might ignore the main thrust of the resolution before us. I am sorry that some Members of the other body insisted that as a condition of their support, an effective date must be written into the resolution. Obviously, they were trying to protect the huge grain dealers who have already negotiated their deals with Russia through American credit prior to October 15. Unless I am wrong, it occurs to me that the principles which we are incorporating in this resolution should apply to the entire Soviet-American grain deal and not only to those agreements reached after October 15.

This reservation of mine notwithstanding, Mr. Speaker, I do hope the House will act on this resolution as quickly as possible to impress upon the Soviet Union that the American people denounce with all of our vigor this cruel persecution of Russia's Jewish citizens who wish to emigrate from Russia.

The anti-Semitism which we see growing in the Soviet Union is a source of deep concern to all of us in the free world. It is my hope that by imposing these economic sanctions against the Soviets, we can force Russia to abandon this cruel treatment of her minorities.

Mr. Speaker, I should like to commend our colleague from Ohio, Congressman VANIK for his action here today and our colleague in the other body, Senator HENRY JACKSON in his initiative in obtaining more than 51 signatures on the petition in the other body.

I am particularly pleased that Senator JACKSON rejected suggestions that Congress adopt a mere "sense of Congress" resolution on this matter.

Senator JACKSON's insistence that we enact a formal, binding resolution will indeed lift the spirits of oppressed peoples behind the Iron Curtain.

LOCAL RAIL SERVICES ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SKUBITZ) is recognized for 15 minutes.

Mr. SKUBITZ. Mr. Speaker, I realize how little time remains in this session to complete action on the essential business pending before this House. Introduction of new legislation at this late date is almost pointless unless the matter is so important that it cannot or should not be postponed until the new Congress convenes. I introduced a bill yesterday (H.R. 16960) which I believe should not be put off until next year.

My bill offers a solution to the problem of abandonment of railroad lines serving local and rural areas. These are lines the railroad companies believe are unprofitable. I urge every Member to examine this proposal closely.

Since July 1 of 1971, a period of 14 months ago, 1,140 miles of abandonment have been granted. Another 3,675 miles of rail service line abandonment is still pending. Only 33 miles have been denied. Abandonment proceedings in the last 3 months affect 189 congressional districts.

The problem is critical and will continue unabated in light of the ICC's announced intention to make abandonments easier to obtain. When freight locomotives cease to operate in local and rural areas, the affected communities are cut off from a vital flow of commerce. Farmers cannot get their grain to market. Businessmen cannot ship heavy equipment in or out of town. Construction materials for homes, schools, and offices cannot be moved into the area. Naturally these communities feel their lifeline is being severed by the railroads and the ICC.

Of course, the railroads contend, and I sympathize with their position, that these local service lines are unprofitable. We all are familiar with the problems of the railroads and their needs to economize. But I believe more than economic costs must be considered before abandonments are granted. We must consider the effects on the rural and local communities.

My bill provides a plan whereby the States may help subsidize the rail operation over short routes which would otherwise be abandoned. States will study the proposed abandonments and may choose to subsidize the lines with a 70–30 Federal-State grant. This bill authorizes $50 million for this purpose. There would be a 28-month moratorium on line abandonments to give the States time to implement subsidy procedures.

I repeat that 189 congressional districts are directly affected by rail abandonment proposals made during the past 3 months. I have had a table prepared showing abandonment mileages granted and pending in each of these districts and ask that it be included at this point in my remarks:

ABANDONMENT APPLICATIONS FILED FROM JULY 1, 1971 TO SEPT. 18, 1972

[Miles]

State, Member, and district	Abandonments pending	Abandonments granted
Alabama: Mrs. George Andrews, 3	0	36.20
Arkansas: Bill Alexander, 1	1 61.94	0
California:		
Robert L. Leggett, 4	17.15	0
Don Clausen, 1	0	1 7.80
William S. Mailliard, 6	0	1 7.80
Richard T. Hanna, 34	0	1 5.55
John G. Schmitz, 35	0	1 3.06
Barry Goldwater, Jr., 27	0	1 2.49
Colorado:		
Frank Evans, 3	0	4.34
Wayne Aspinall, 4	3.32	1 97.90
Connecticut:		
Stewart McKinney, 4	.8	0
Ella T. Grasso, 6	1 49.8	0
William Cotter, 1	0	1 3.9
Robert Steele, 2	0	1 3.9
Delaware: Pierre S. (Pete) du Pont	8.99	4.70
Florida:		
Don Fuqua, 2	0	1 12.73
Dante Fascell, 12	0	1 1
Claude Pepper, 11	0	1 1
Bill Chappell, 4	1 9.27	0
Bill Young, 8	1 9.27	0
Georgia: John J. Flynt, Jr., 6	0	2.22
Idaho: James McClure, 1	0	4.30
Illinois:		
Paul Findley, 20	83.35	0
Robert Michel, 18	85.90	0
Kenneth Gray, 21	1 72.06	20.95
George Shipley, 23	1 85.69	7.58
Thomas Railsback, 19	61.6	0
John Anderson, 16	0	1 83.30
Les Arends, 17	0	1 14
Cook County (12 Congressmen): Ralph Metcalfe, Abner Mikva, Morgan Murphy, Edward Derwinski, John Kluczynski, George Collins, Frank Annunzio, Dan Rostenkowski, Sidney Yates, Harold Collier, Roman Pucinski, and Philip Crane	0	7.42
Total	316.51	125.83
Indiana:		
John Myers, 7	1 61.93	26
J. Edward Roush, 4	1 53.4	14.1
William Bray, 6	1 79.65	6.2
Roger Zion, 8	2.42	1
David Dennis, 10	1 56.8	0
Elwood Hillis, 5	1 88.82	0
John Brademas, 3	1 42.9	0
Lee Hamilton, 9	1 48.84	11.4
Andrew Jacobs, 11	1 22.8	
Total	325.36	58.70
Iowa:		
John Culver, 2	13.99	1 112.45
H. R. Gross, 3	0	5.4
Neal Smith, 5	3.1	6.7
William Scherle, 7	9.51	12.02
John Kyl, 4	16.92	0
Total	43.52	136.57
Kansas:		
Joe Skubitz, 5	6.7	0
Keith Sebelius, 1	0	20.51
William Roy, 2	1 3.57	0
Larry Winn, Jr., 3	1 3.57	0
Kentucky:		
Carl Perkins, 7	0	.94
William Curlin, Jr., 6	9.65	0
Louisiana:		
Joe Waggonner, Jr., 4	0	1.68
Vacant, 7	1 42.34	0
Speedy Long, 8	1 42.34	0
Maryland:		
Goodloe Byron, 6	1 49.40	1 4.64
Lawrence Hogan, 5	2.8	0
William Mills, 1	16.70	1.14
Clarence Long, 2	1 3.7	1 1.8
Paul Sarbanes, 4	1 3.7	1 1.8
Parren Mitchell, 7	1 3.7	1 1.8
Total	68.90	5.78
Massachusetts:		
Robert Drinan, 3	1 4.2	1 4.41
Bradford Morse, 5	0	1 2.21
Silvio Conte, 1	0	1 2.21
Harold Donohue, 4	1 4.2	1 2.2
Edward Boland, 2	1 4.2	1 2.2
Margaret Heckler, 10	1 1.9	0
Hastings Keith, 12	1 1.9	0
Michigan:		
Guy Vander Jagt, 9	1 221.43	0
James Harvey, 8	7.24	46.07
Elford Cederberg, 10	27.76	8.32
Edward Hutchinson, 4	1 51.77	1 22.01
Garry Brown, 3	14.36	1 7.26
Donald Reigle, 7	0	9.00
Gerald Ford, 5	1 38.8	2.64
Marvin Esch, 2	6.3	0
Charles Chamberlain, 6	5.4	0
Phillip Ruppe, 11	4.19	0
Wayne County (6 Congressmen): John Conyers, Charles Diggs, Lucien Nedzi, William Ford, John Dingell, and Martha Griffiths	0	3.34
Total	338.45	88.04
Minnesota:		
Ancher Nelsen, 2	12.9	9.2
John Zwach, 6	1 59.2	12.6
Bob Bergland, 7	1 105.76	0
John Blatnik, 8	0	2.04
Albert Quie, 1	8.99	0
Total	135.85	23.84
Mississippi: Jamie Whitten, 2	1 6.89	0
Missouri:		
Bill Burlison, 10	1 109.29	23
W. R. Jull, Jr., 6	33.39	0
Montana:		
Richard Shoup, 1	0	28.99
John Melcher, 2	43.75	23.1
Nebraska: Charles Thone, 1	56.9	0
New Jersey:		
John Hunt, 1	0	4.02
James Howard, 3	0	1 15.6
Frank Thompson, Jr.? 4	0	2.66
Peter Freylinghuysen, 5	3.6	0
Edwin Forsythe, 6	4.5	24.1
New Mexico:		
Manuel Lujan, 1	28	0
Harold Runnels, 2	0	3.90
New York:		
Hamilton Fish, 28	114.9	2.6
James Hastings, 38	1 51.5	1 3.7
Samuel Stratton, 29	1 20.29	6.6
Carleton King, 30	1 32.39	0
Robert McEwen, 31	21.2	0
John Terry, 34	1 16.8	11.1
Frank Horton, 36	1 24.8	1 5.15
Barber Conable, Jr., 35	1 66.55	1 8.85
Henry P. Smith III, 40	1 61.2	1 3.7
Howard Robison, 33	1 67.5	0
Alexander Pirnie, 32	9.5	0
Jack Kemp, 39	0	1 3.7
Thaddeus Dulski, 41	0	1 3.7
Total	392.34	29.15
North Carolina:		
David Henderson, 3	0	1 38.85
Alton Lennon, 7	0	1 38.85
North Dakota: Mark Andrews, 1	0	29.51
Ohio:		
William Harsha, 6	1 29.70	1.36
Jackson Betts, 8	29.6	1 33.1
Delbert Latta, 5	13.9	1 32.30
Frank Bow, 16	1 18.3	0
Walter Powell, 24	1 34.70	1.22
William McCulloch, 4	1 77.5	0
Wayne Hays, 18	5.1	0
Clarence Brown, 7	1 44.6	0
Clarence Miller, 10	1 70.96	13.13
John Ashbrook, 17	1 123.16	0
Samuel Devine, 12	1 47.6	0
Chalmers Wylie, 15	1 3.6	0
Charles Carney, 19	1 19	0
William Stanton, 11	1 19	0
Total	340.26	48.81
Oregon:		
Edith Green, 3	1	0
John Dellenback, 4	1.99	18.78
Pennsylvania:		
John Saylor, 22	1 146.44	27.78
Albert Johnson, 23	1 179.92	42.34
J. Irving Whalley, 12	45.73	10.31
John Dent, 21	1 26.39	6.00
Thomas Morgan, 26	14.71	0
Joseph Vigorito, 24	1 63.45	9.15
Edward Biester, Jr., 8	16.7	0
Daniel Flood, 11	1 61.85	1.35
Herman Schneebeli, 17	1 70.09	1.9
Frank Clark, 25	1 127.92	0
Gus Yatron, 6	17.85	0
Lawrence Williams, 7	1 47.25	1.30
John Ware, 9	1 47.25	1.30
Joseph McDade, 10	1 67.5	0
Allegheny County (Pittsburgh), 4 Congressmen: William Moorhead, 14, John Heinz, 18; Joseph Gaydos, 20; William Conover, 27	1.41	1.20
Total	574.25	99.93
Rhode Island: Ferdnand St Germain, 1	4.1	0
South Carolina:		
Tom Gerrys, 5	0	22.8
James Mann, 4	0	1
South Dakota:		
Frank Denholm, 1	58	16.15
James Abourezk, 2	106.49	0
Tennessee:		
John Duncan, 2	1	0
Joe Evins, 4	11.79	0
Texas:		
W. R. Poage, 11	19.13	0
Graham Purcell, 13	57.3	0
Wright Patman, 1	1 36.37	0
Ray Roberts, 4	1 36.37	0

State, Member, and district	Abandonments pending	Abandonments granted
Utah:		
Gunn McKay, 1	0	[1] 22.06
Sherman Lloyd, 2	2.85	[1] 13.13
Virginia:		
Kenneth Robinson, 7	[1] 48.97	0
William Scott, 8	[1] 26.99	0
Vacant, 6	[1] 21.98	0
Washington:		
Thomas Foley, 5	0	80.93
Mike McCormack, 4	0	19.76
Lloyd Meeds, 2	0	30.47
Thomas Pelly, 1	0	[1] 5.91
Brock Adams, 7	0	[1] 5.91
West Virginia:		
Robert Mollohan, 1	26.78	[1] 15.71
Harley Staggers, 2	21.65	4.46
John Slack, 3	0	[1] 9.30
Ken Hechler, 4	0	5.04
James Kee, 5	0	25.03
Wisconsin:		
Vernon Thompson, 3	16.68	0
William Steiger, 6	23.6	0
Alvin O'Konski, 10	88.38	27.20
Wyoming: Teno Roncalio, 1	[1] 50.88	0

[1] Means the proposed abandonment affects a line traversing more than 1 congressional district.

An examination of the table makes clear that railroad abandonments concern the districts of a great majority of my colleagues. Moreover, the fact that a particular abandonment may be listed as only a few miles belies the significance of the project for indeed that small mileage may be part of a line in another district or another State covering major trackage. Its abandonment does not simply mean tearing up a mile of steel track and ties but the end of 40 or 50 miles of branch service.

In my judgment, it is imperative that the Congress take action to deal with a problem that is of urgent importance to hundreds of local and rural communities in this land. The Commerce Committee in the other body has approved such a proposal, offered by my colleague, the senior Senator from Kansas (Mr. PEARSON) as part of a complex surface transportation bill. The entire measure is pending before the Senate.

I invite those of my colleagues who so desire to join me in cosponsorship of the proposal although all of us are aware that it is late in this congressional session to expect final floor consideration of this measure. However, as members of the House Interstate and Foreign Commerce Committee know, extensive hearings have been held on the overall surface transportation bill, which as originally introduced encompassed an abandonment proposal as title II.

In my judgment, abandonment is important enough an issue to stand on its own and not be weighted down by a controversial and complex transportation proposal that involves some $3 billion in Government loans and guarantees.

It is my intention to call to the attention of Chairman GEORGE STAFFORD of the Interstate Commerce Commission the introduction of this measure and the wide support I believe it enjoys by the membership of this House. Hopefully we could persuade him that pending its consideration early in the next Congress, his agency should hold in abeyance final decisions on pending abandonment proceedings so that communities adversely affected would at least have the opportunity to make use of their own efforts to maintain branch rail lines. I hope my colleagues will join me in such a letter to Chairman STAFFORD.

MORE ON THE BICENTENNIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 10 minutes.

Mr. SCHWENGEL. Mr. Speaker, as you are aware, the American Revolution Bicentennial Commission has recently been the subject of considerable criticism in the press and among the public at large. Not a few of the strictures in the Commission echo charges I made against it this past summer during the debate on its appropriations. At that time, I emphasized that I was not opposed to a bicentennial celebration or a Bicentennial Commission, but that I deplored the manner in which the present Commission is discharging its mandate from the Congress. I regret its inadequacy and ineffectiveness. I pointed to the bicentennial programs of the Library of Congress as an example of the kinds of things the American Revolution Bicentennial Commission should be doing. It is with much satisfaction that I call to the House's attention the continued implementation of the Library of Congress' well-conceived programs. The Library has just announced the topic and the speakers for the second of its five symposia on the American Revolution, which will be held next May 10 and 11, 1973, at the Library. Its topic will be "The Fundamental Testaments of the American Revolution." What topic, Mr. Speaker, could be more suitable for investigation than the meaning and impact of the great fundamental documents of our Revolutionary heritage?

Prof. Julian P. Boyd of Princeton University, the editor of the papers of Thomas Jefferson and a former president of the American Historical Association, will chair the program. Prof. Bernard Bailyn of Harvard University, a Pulitzer Prize winner in history, will deliver the first paper on "Common Sense." He will be followed by Cecilia Kenyon, Charles N. Clark professor of government at Smith College, who will speak on the Declaration of Independence. Next will come Prof. Merrill Jensen of the University of Wisconsin, editor of the documents relating to the ratification of the U.S. Constitution and the Bill of Rights and former president of the Organization of American Historians, who will examine the Articles of Confederation. Then Prof. Richard B. Morris of Columbia University, another Pulitzer Prize winner in history, will discuss the Paris Peace Treaty in which the independence of the United States was recognized by Great Britain. J. Russell Wiggins, newspaper editor and former Ambassador to the United Nations, will conclude the program with an appraisal of the fundamental testaments of the American Revolution today.

Mr. Speaker, this distinguished group of participants should enlighten and inspire us. The papers they present will be published by the Library, thus making them widely available to scholars, students, and others.

The Library of Congress should be highly commended for arranging such fine programs and for its well-conceived plans for other activities and diversified publications on the theme of "Liberty and Learning." I believe that the Library will continue to show us how the bicentennial of the Revolution should be celebrated.

It is my hope that Commission members and especially its principle directors and the chairman of the Commission will at least attend the symposia and others that the Library of Congress will present.

THE SERIOUS PORTENT OF THE NEW CHINA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the House of Representatives has access to a report filed by the majority and minority leaders entitled, "Impressions of the New China." It is a candid, informative report which merits careful study. Many passages are thought-provoking.

For instance, I find this passage:

The cities we visited—Shanghai, Peking, Shen Yang, Anshan and Canton—are strikingly clean. There is virtually no litter. There are no flies. There are no dogs. No animals or poultry run loose. Most buildings are well maintained.

Few U.S. cities can say as much—not even Washington, the Capital City. Regretfully, there is equal disparity in the crime situation here and in China.

Other passages which I found very impressive state:

Not one member of our party reported seeing even one Chinese who appeared to be suffering from hunger, or exposure, or who appeared to be socially crippled, homeless, idle, or uncared for. In cities Americans saw years ago as dirty and crowded with the hungry and the ragged, the poor and the begging, the sick and the lame, we saw bustle, cleanliness, and a disciplined purposefulness.

So widely shared has been the progress since 1949, so improved the lifestyle of the average Chinese, that these people living, by our standards in relative privation, give every impression of counting their blessings, grateful for even modest progress, not restive with only the bare necessities of food, clothing, shelter and health.

If she can maintain political stability, if she can upgrade her agriculture and industry, if she can remain free from outside interference—what will China be like in another two or three short decades?

The answer is obvious. If she manages to achieve as she aspires, China in the next half century can emerge a self-sufficient power of a billion people—a nation whose agricultural output can provide for her population, whose industrial capacity can be enormous, whose military capability can be very substantial, with a people united in devotion and obedience to the State.

There, in that nation where State-directed conformity produces unity of effort and purpose, and where self-indulgence and licentiousness of any kind are not tolerated, we reflected on our own country. We were troubled that, by contrast in our own nation, where people are free to live and work and

choose and read and think and disagree as they please, there has been widespread division, discord and disillusionment and a pervasive permissiveness straining the fibers of our national character.

In disciplined, unified China, American visitors will wonder if our self-indulgent free society will be able to compete effectively fifty years hence with their totalitarian State, possessed of a population which dwarfs our own, with equal or greater natural resources, and with total commitment to national goals.

The report also spells out weaknesses which the House leaders saw in the Chinese programs; for instance, the regimentation which begins with the smallest children and continues throughout the lives of the Chinese people; the political indoctrination which permits only the State's viewpoint to be expressed. There also were the disciplined production methods which tolerate no wasted efforts. This brings about a serious question which we cannot overlook. These things are not for Americans. But can the American capitalistic system, with all the dissent which it now is generating, compete with organized, disciplined people who tolerate no deviations?

The report will probably be filed and forgotten. The fact of a modern emerging China will be with us whether or not we are willing to accept it.

The American system, with all its great traditions and accomplishments, may well be moving into the period of its greatest challenge. We cannot meet this challenge by trying to give everybody everything they want, by promising pie in the sky in every election, by running our country so hopelessly in debt that national insolvency and national socialism are all that is left. If ever there was a time for Americans to start pulling together instead of pulling each other apart, the time is now.

H.R. 16656, FEDERAL AID TO HIGHWAYS

(Mr. MIKVA asked and was given permission to extend his remarks in the body of the RECORD.)

Mr. MIKVA. Mr. Speaker, when the House considers H.R. 16656, the Federal Aid to Highways Act, I intend to offer the following amendment:

Page 102, strike out line 23 and all that follows, down through and including line 9 on page 103.

This amendment would delete from the bill section 133. As reported, that section authorizes the Secretary of Transportation to pay up to $55 million to the State of Illinois to pay off the bonds on a portion of Interstate Route 90, also known as the Chicago Skyway.

INCOME TAX RETURN PREPARATION ASSISTANCE ACT OF 1972

(Mr. COLLINS of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. COLLINS of Illinois. Mr. Speaker, the complexity of our tax laws and tax returns is forcing a large and growing number of Americans with modest incomes to pay to have their tax returns made out. Thousands of tax preparers, from H & R Block to the corner hairdresser, have opened offices.

A thorough review of the income tax preparation business, its strengths and its weaknesses, has been conducted by the Legal and Monetary Affairs Subcommittee on which I sit. Under the able chairmanship of my distinguished colleague from Connecticut (Mr. MONAGAN) the subcommittee has received testimony from IRS Commissioner Johnnie Walters, Henry Bloch, members of the Tax Reform Research Group, and other witnesses. The most striking fact that has emerged from these hearings, in my opinion, is that many low- and moderate-income taxpayers are forced to pay what is in effect a surtax in order to find out how much tax they owe. This should not be.

Today, I am introducing legislation which would require the Secretary of Treasury to provide free tax preparation service for all taxpayers with adjusted gross income of $10,000 or less. The Secretary would be required to make such services available at locations which are accessible to elderly and low- and moderate-income individuals, including local CPA offices, model cities offices, neighborhood legal services offices, public housing projects, and retirement communities and nursing homes.

The purpose of this legislation is not only to provide tax preparation service to all persons with adjusted gross income of $10,000 and less, but to make this service accessible to those who need it most. There are approximately 6 million persons in this country who are over 65 and have adjusted gross incomes of $10,000 or less. Many of them would be unable to travel to existing IRS offices to obtain free tax preparation service. Also, many low-income persons would be unaware of the availability of such service if it were not available to them in their neighborhoods and advertised as available. It is these taxpayers that the bill is designed to help.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PELLY (at the request of Mr. GERALD R. FORD), for the period October 10–13, on account of official business.

Mr. KYROS, for October 5, 1972, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. VANIK, for 10 minutes, today; and to revise and extend his remarks.

(The following Members (at the request of Mr. LANDGREBE), to revise and extend their remarks, and to include extraneous matter:)

Mr. SCHWENGEL, today, for 10 minutes.

Mr. KEMP, today, for 15 minutes.

Mr. MCKINNEY, today, for 15 minutes.

Mr. HANSEN of Idaho, today, for 10 minutes.

Mr. CRANE, today, for 5 minutes.

(The following Members (at the request of Mr. MAZZOLI) to revise and extend his remarks and include extraneous material:)

Mr. ASPIN, for 10 minutes, today.

Mr. ROSTENKOWSKI, for 10 minutes today.

Ms. ABZUG, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. COTTER, for 5 minutes, today.

Mr. MELCHER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES in five instances, and to include extraneous material.

Mr. DU PONT, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $510.

Mr. ECKHARDT to revise and extend his remarks immediately preceding vote on conference report on S. 2770 and include extraneous matter.

Mr. CONYERS immediately following remarks of Mr. ROSENTHAL on consideration of S. 1316.

(The following Members (at the request of Mr. LANDGREBE) and to revise and extend their remarks and include additional matter:)

Mr. KUYKENDALL.
Mr. GUDE.
Mr. BRAY in three instances.
Mr. SPRINGER in four instances.
Mr. SCHWENGEL in two instances.
Mr. WHITEHURST.
Mr. WYMAN in two instances.
Mr. DU PONT.
Mr. RIEGLE.
Mr. DERWINSKI in three instances.
Mr. DEL CLAWSON in two instances.
Mr. MOSHER.
Mr. HOSMER in two instances.
Mr. KEMP in three instances.
Mr. ROBINSON of Virginia.
Mr. MYERS.
Mr. ESCH.
Mr. SHRIVER.
Mr. BOB WILSON.
Mr. KEITH.
Mr. LANDGREBE in five instances.
Mr. DUNCAN.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous material:)

Mr. DENT.
Mr. FLOOD.
Mr. CARNEY in two instances.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. DENHOLM.
Mr. REES in two instances.
Mr. CHAPPELL.
Mr. HUNGATE in two instances.
Mr. O'HARA.
Mr. HARRINGTON.
Mr. ROE in two instances.
Mr. DINGELL in three instances.
Mr. HAMILTON.
Mr. ANNUNZIO in 10 instances.
Mr. BLATNIK.

Mr. HANNA in two instances.
Mr. EDWARDS of California in two instances.
Mr. LEGGETT.
Mr. DE LA GARZA.
Mr. MACDONALD of Massachusetts.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3310. An act to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes; to the Committee on Armed Services.

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. 7378. An act to Create a Commission on Revision of the Federal Court Appellate System of the United States;

H.R. 12652. An act to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes; and

H.R. 14909. An act to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2770. An act to amend the Federal Water Pollution Control Act.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On October 3, 1972:

H.R. 9501. An act to amend the North Pacific Fisheries Act of 1954, and for other purposes; and

H.R. 14915. An act to amend chapter 10 of title 37, United States Code, to authorize at Government expense, the transportation of house trailers or mobile dwellings, in place of household and personal effects, of members in a missing status, and the additional movement of dependents and effects, or trailers, of those members in such a status for more than 1 year.

On October 4, 1972:

H.R. 2895. An act to provide for the conveyance of certain real property in the District of Columbia to the National Firefighting Museum and Center for Fire Prevention, Incorporated; and

H.R. 10857. An act to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 3 minutes p.m., the House adjourned until tomorrow, Thursday, October 5, 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:

2391. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1973 for the legislative branch, the judiciary, and the Southwestern Power Administration (H. Doc. No. 92-369); to the Committee on Appropriations and ordered to be printed.

2392. A letter from the Deputy Assistant Secretary of the Interior; transmitting a copy of a proposed amendment to a concession contract for the continued provision of facilities and services for the public in Acadia National Park, Maine, for a term of 1 year ending December 31, 1973, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

2393. A letter from the Secretary of the Army, transmitting a letter from the chief of Engineers, Department of the Army, dated September 25, 1972, submitting a report, together with accompanying papers and illustrations, on Fall Creek Basin, Ind., requested by a resolution of the Committee on Public Works, House of Representatives, adopted December 11, 1969 (H. Doc. No. 92-370); to the Committee on Public Works and ordered to be printed with illustrations.

2394. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated September 15, 1972, submitting a report, together with accompanying papers and illustration, on South Umpqua River, Oreg., in partial response to a resolution of the Committee on Commerce, U.S. Senate, adopted November 18, 1937, and to the River and Harbor Act approved June 20, 1938 (H. Doc. No. 92-371); to the Committee on Public Works and ordered to be printed with illustrations.

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. STAGGERS: Committee on Interstate and Foreign Commerce. Report on securities industry study. (Rept. No. 92-1519). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Committee on Foreign Affairs. S. 2700. An act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof (Rept. No. 92-1521). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 16022. A bill to amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamps on containers of distilled spirits as evidence of taxpayment (Rept. No. 92-1522). Referred to the Committee of the Whole House on the State of the Union.

Mr. GARMATZ: Committee of conference. Conference report on H.R. 7117 (Rept. No. 92-1523). Ordered to be printed.

Mr. JOHNSON of California: Committee on Interior and Insular affairs. H.R. 16554. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resources developments; with amendments (Rept. No. 92-1524). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARING: Committee on Interior and Insular Affairs. H.R. 6446. A bill to provide for addition of the Minam River Canyon and other areas to the Eagle Gap Wilderness, Wallowa and Whitman National Forests, to modify the boundaries of the Wallowa National Forest in the State of Oregon, and for other purposes; with amendments (Rept. No. 92-1525). Referred to the Committee of the Whole House on the State of the Union.

Mr. HÉBERT: Committee on Armed Services. H.R. 16943. A bill to authorize the Secretary of the Army and the Secretary of the Navy to make certain property under their jurisdiction available for transfer for national park purposes; with amendments (Rept. No. 92-1526). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRASER: Committee of conference. Conference report on House Joint Resolution 984. (Rept. No. 92-1527). Ordered to be printed.

Mr. COLMER: Committee on Rules. House Resolution 1149. A resolution providing for the consideration of H.R. 16810. A bill to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal years ending June 30, 1973 (Rept. No. 92-1528). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE 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. SEIBERLING: Committee on the Judiciary. H.R. 10636. A bill for the relief of Mrs. Dominga Pettit (Rept. No. 92-1520). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLARK (for himself, Mr. DOWNING, Mr. TIERNAN, Mr. GROVER, Mr. MOSHER, Mr. DINGELL, Mr. JAMES V. STANTON, and Mr. MURPHY of New York):

H.R. 16984. A bill to amend section 40(b) of the Merchant Marine Act of 1970; to the Committee on Merchant Marine and Fisheries.

By Mr. COLLINS of Illinois:

H.R. 16985. A bill to require that assistance be provided at locations convenient for elderly and low- or moderate-income taxpayers, in the preparation and filing of annual income tax returns in the case of individuals having adjusted gross income of $10,000 or less; to the Committee on Ways and Means.

By Mr. ESCH (for himself, Mr. ALEXANDER, Mr. FRENZEL, Mr. HARRINGTON, and Mr. SCHWENGEL):

H.R. 16986. A bill to establish a National, Institute of Population Growth and to trans-

fer to the Institute the functions of the Secretary of Health, Education, and Welfare, and of the Director of Economic Opportunity relating to population research and family planning services; to the Committee on Government Operations.

By Mr. GARMATZ:

H.R. 16987. A bill to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. HARVEY:

H.R. 16988. A bill to require States to pass along to public assistance recipients who are entitled to social security benefits the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts:

H.R. 16989. A bill to amend the Trade Expansion Act of 1962 to prohibit the application of the most-favored-nation principle to certain countries; to the Committee on Ways and Means.

By Mr. HEINZ (for himself, Mr. BIESTER, Mr. BURTON, Mr. CONOVER, Mr. COUGHLIN, Mr. DANIEL of Virginia, Mr. DELLUMS, Mr. DENT, Mr. FRELINGHUYSEN, Mr. MCDADE, Mr. MOSS, Mr. PODELL, Mr. RAILSBACK, and Mr. ROYBAL):

H.R. 16990. A bill to amend the Disaster Relief Act of 1970 to provide for the mandatory development and maintenance by States of disaster preparedness plans, to provide for the annual testing of such plans, to increase the amount of Federal assistance in the case of approved plans, and for other purposes; to the Committee on Public Works.

By Mr. MYERS:

H.R. 16991. A bill to provide for converting certain abandoned railroad rights-of-way in the public domain into bicycle paths, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PICKLE:

H.R. 16992. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out; to the Committee on the Judiciary.

By Mr. PRYOR of Arkansas:

H.R. 16993. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Camden, Ark., for airport purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL (for himself, Mr. BURTON, Mr. BYRNE of Pennsylvania, Mrs. CHISHOLM, Mr. DANIELSON, Mr. DELLUMS, Mr. EDWARDS of California, Mr. HARRINGTON, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. MILLER of California, Mr. REES, Mr. SISK, Mr. TALCOTT, Mr. VAN DEERLIN, and Mr. CHARLES H. WILSON):

H.R. 16994. A bill to amend the Internal Revenue Code of 1954 to provide that any resident of the Republic of the Philippines may be a dependent for purposes of the income tax deduction for personal exemptions; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 16995. A bill to require States to pass along to public assistance recipients who are entitled to social security benefits the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. THOMSON of Wisconsin (for himself and Mr. QUIE):

H.R. 16996. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Saint Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. THOMPSON of Georgia:

H.R. 16997. 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. VANIK (for himself, Mr. CELLER, Mrs. ABZUG, Mr. ADDABBO, Mr. ANDERSON of Tennessee, Mr. ANNUNZIO, Mr. BADILLO, Mr. BELL, Mr. BIAGGI, Mr. BRASCO, Mr. BUCHANAN, Mr. BURKE of Massachusetts, Mr. CAREY of New York, Mr. CORMAN, Mr. COUGHLIN, Mr. CRANE, Mr. DANIELS of New Jersey, Mr. DELANEY, Mr. DELLUMS, Mr. DIGGS, Mr. DOW, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, and Mr. FISH):

H.R. 16998. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. FORSYTHE, Mr. FRASER, Mr. FULTON, Mrs. GRASSO, Mr. GRAY, Mr. GREEN of Pennsylvania, Mr. HALPERN, Mr. HELSTOSKI, Mr. KARTH, Mr. KOCH, Mr. KYROS, Mr. LEGGETT, Mr. LENT, Mr. LONG of Maryland, Mr. MACDONALD of Massachusetts, Mr. MIKVA, Mr. MINISH, Mr. MITCHELL, Mr. MOSS, Mr. NIX, Mr. O'NEILL, Mr. PATTEN, Mr. PEPPER, and Mr. PEYSER):

H.R. 16999. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. PODELL, Mr. PRICE of Illinois, Mr. PUCINSKI, Mr. RANGEL, Mr. REES, Mr. REUSS, Mr. RODINO, Mr. ROE, Mr. ROSENTHAL, Mr. ST GERMAIN, Mr. SARBANES, Mr. SCHEUER, Mr. JAMES V. STANTON, Mr. STOKES, Mr. VAN DEERLIN, Mr. VIGORITO, Mr. WALDIE, Mr. WIDNALL, Mr. YATES, Mr. MADDEN, and Mr. BEGICH):

H.R. 17000. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket-economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON:

H.R. 17001. A bill to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ANDERSON of California (for himself, Mr. ANDERSON of Illinois, Mr. BOLAND, and Mr. GROVER):

H.R. 17002. A bill to authorize appropriations for construction of certain highway projects in accordance with title 23 of the United States Code, and for other purposes; to the Committee on Public Works.

By Mr. HARRINGTON:

H.R. 17003. A bill to authorize the Secretary of Commerce to promulgate voluntary safety and other standards for U.S. fishing vessels, to provide loan guarantees for the purpose of bringing such vessels into compliance with such standards, and to provide loan guarantees for vessel modification for the improvement of fishing capability; to the Committee on Merchant Marine and Fisheries.

H.R. 17004. A bill to authorize the Secretary of Commerce to make grants available to modernize, and to increase productivity within, the commercial fishing industry; to the Committee on Merchant Marine and Fisheries.

H.R. 17005. A bill to amend the Fish and Wildlife Coordination Act of 1956 in order to provide loans to assist the operation of fishermen's cooperatives; to the Committee on Merchant Marine and Fisheries.

H.R. 17006. A bill to authorize a vessel modification grant program to encourage the harvesting of unexploited or underexploited species of fish, and for other purposes; to the Committee on Merchant Marine and Fisheries

H.R. 17007. A bill to amend the Internal Revenue Code of 1954 to provide a tax exemption for fishermen's cooperative organizations; to the Committee on Ways and Means.

H.R. 17008. A bill to provide loans to aid in the establishment of fishermen's cooperatives; to the Committee on Merchant Marine and Fisheries.

By Mr. ROSENTHAL (for himself, Mr. BRADEMAS, Mr. EILBERG, Mr. PEPPER, Mr. SIKES, and Mr. THOMPSON of New Jersey):

H.J. Res. 1321. Joint resolution expressing the sense of the Congress with respect to the foreign economic policy of the United States in connection with its relations with the Soviet Union and any other country which uses arbitrary and discriminatory methods to limit the right of emigration, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MAHON:

H. Con. Res. 713. Concurrent resolution providing procedures to control Federal expenditures and net lending for the fiscal year 1973; to the Committee on Government Operations.

By Mr. FINDLEY:

H. Con. Res. 714. Concurrent resolution expressing the sense of the Congress with respect to the schedule of exit fees recently decreed by the Soviet Union; to the Committee on Foreign Affairs.

By Mr. QUIE:

H. Con. Res. 715. Concurrent resolution to provide for the printing of the first national report of Project Baseline; to the Committee on House Administration.

By Mr. BLATNIK:

H. Res. 1147. Resolution authorizing additional investigate authority to the Committee on Public Works; to the Committee on Rules.

By Mr. STAGGERS:

H. Res. 1148. Resolution providing for the printing of additional copies of House Report 92–1519, entitled "Securities Industry Study"; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MAILLIARD presented a resolution, (House Resolution 1150), to refer the bill, H.R. 16983, entitled "A bill for the relief of Del Monte Fishing Co." to the Chief Commissioner of the Court of Claims in accordance with sections 1492 and 2509 of title 28, United States Code, which was referred to the Committee on the Judiciary.