ORDER FOR THE SENATE TO PROCEED TO THE CONSIDERATION OF EITHER S. 1636 OR S. 356 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the unanimous-consent time agreement on the conference report meets with the approval of the Senator from Florida (Mr. CHILES), that immediately upon the disposition of the nomination of Mr. Arnett on tomorrow, the Senate return to legislative session and proceed to the consideration of the conference report on S. 1636, and that upon the disposition of that conference report, the Senate then take up the bill with reference to consumer's product warranty, S. 356, or, in the alternative, if the agreement as to time is not agreeable to the Senator from Florida, the Senate then proceed as under the previous order to take up S. 356 upon the disposition of the nomination of Mr. Arnett.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, of course, if the time agreement does not meet with the approval of the Senator from Florida (Mr. CHILES), and is thus voided, it is understood that the Senator from Alabama (Mr. SPARKMAN) or any other Senator, under the rule, can call up the conference report at any time subject only to the limitation of the order entered which calls for the bringing up of S. 356 immediately upon the disposition of the nomination of Mr. Arnett. I ask the Chair if my understanding is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10 a.m. tomorrow morning. After the two leaders or their designees have been recognized under the standing order, and at no later than the hour of 10:05 a.m. tomorrow, the Senate will go into executive session to consider the nomination of Mr. Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity.

There is a time limitation on that nomination, and the vote will occur on the confirmation of the nomination at the hour of 12 o'clock noon.

That will be a yea and nay vote. And upon the disposition of the nomination, the Senate will then either take up the conference report on S. 1636, the International Economic Policy Act of 1972, as amended, or S. 356, a bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes depending upon the approval or disapproval of the Senator from Florida (Mr. CHILES) with respect to the agreement in connection with the aforementioned conference report.

There will be a yea-and-nay vote on the confirmation of Mr. Arnett. There will be yea-and-nay votes presumably on amendments to S. 356, if such amendments are offered. It is to be assumed that there will likely be a yea-and-nay vote on the passage of that bill, and if and when the conference report on the International Policy Act of 1972, as amended, S. 1636, is called up, there may be a yea-and-nay vote on any motion with respect thereto, and possibly with respect to the adoption of the conference report.

So, there will be yea-and-nay votes on tomorrow.

On Thursday, the military construction authorization bill will be taken up. There will be yea-and-nay votes on the passage of that bill and amendments thereto, if amendments to the bill are offered.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:48 p.m., the Senate adjourned until tomorrow, Wednesday, September 12, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 11, 1973:

DEPARTMENT OF JUSTICE

Harold S. Fountain, of Alabama, to be U.S. marshal for the southern district of Alabama for the term of 4 years, reappointment.

John H. deWinter, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years, reappointment.

Marvin G. Washington, of Michigan, to be U.S. marshal for the western district of Michigan for the term of 4 years, reappointment.

Robert G. Wagner, of Ohio, to be U.S. marshal for the northern district of Ohio for the term of 4 years, reappointment.

Charles S. Guy, of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania for the term of 4 years, reappointment.

Leonard E. Alderson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years, reappointment.

INTERNATIONAL MONETARY FUND

Arthur F. Burns, of the District of Columbia, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years, vice John N. Irwin II.

INTERNATIONAL BANKS

William J. Casey, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank, vice John N. Irwin II.

HOUSE OF REPRESENTATIVES—*Tuesday, September 11, 1973*

The House met at 12 o'clock noon.

Rabbi Arnold G. Fink, Beth El Hebrew Congregation, Alexandria, Va., offered the following prayer:

O, Source of all being and guardian of our destinies—You are the ultimate mystery of the universe before whom all our endeavors are as naught. Yet, You have made man a partner in the process of unfolding life—of eternal creation. You have shaped his restless spirit that he might search for an elusive truth.

You who has shown Your will of old in the strivings of prophets and sages, we pray that You will make Yourself manifest this day in the assemblage of men and nations. May the dream of a better world permeate even the most common task. Inform the human heart that we may cause righteousness to spring forth from the earth and peace to descend from on high.

We praise You, O Lord, who sanctifies life with sacred promise. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1672) entitled "An act to amend the Small Business Act."

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. 386. An act to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to House Resolution 536, agreed to on September 10, 1973, he did on that day make certification to the U.S. attorney for the District of Columbia as required by House Resolution 536, of the refusal of George Gordon Liddy to be sworn or to take affirmation before a duly authorized subcommittee of the Committee on Armed Services on July 20, 1973.

TRIBUTE TO RABBI ARNOLD G. FINK

(Mr. DULSKI asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DULSKI. Mr. Speaker, our prayer today was offered by Rabbi Arnold G. Fink of the Beth El Hebrew Congregation of Alexandria, Va., and I want to thank the Chaplain of the House, Dr. Latch, for making the arrangements for us.

Rabbi Fink was born in my home city of Buffalo, N.Y., where his late father, Rabbi Joseph Fink, served at the Temple Beth Zion for 40 years. The family is well known and highly respected and Rabbi Arnold Fink's service marks the family's 11th consecutive generation of rabbis.

After undergraduate studies at Princeton, Rabbi Fink's rabbinical studies were undertaken at Hebrew Union College where he was ordained in June 1962. He served at the Reform Congregation Keneseth Israel in Philadelphia from 1962 until accepting his present position.

His activities cover a broad range of civic and academic as well as religious areas. He is immediate past chairman of the Northern Virginia Synagogue Council; executive board member of the Jewish Social Service Agency; a 5-year chairman of the Institute on Judaism for Christian Clergy; served as rabbinic adviser and Torah Corps dean for the Temple Youth of Pennsylvania and Mid-Atlantic Federations; is rabbinical preceptor for Interfaith Associates in Metropolitan Theological Education of Washington, D.C.

He has lectured in Judaica at various universities for the Jewish Chautauqua Society; was a lecturer in history at Gratz College and instructor in Judaica at Manor College; has served as National Rabbinical Council member of the United Jewish Appeal, and belongs to Rotary Club, B'nai B'rith, Alexandria Clergy Association, Washington Board of Rabbis, Worship Committee of Reform Judaism in America, and the American Jewish Committee; yet has found time to write "Martin Buber's Concept of the Self," and "Aspects of Continuity and Discontinuity in the Role of the Rabbi," and has had various reviews and articles published.

It is a great pleasure for me today to welcome Rabbi Fink, his lovely wife Karen, and his children, Daniel, Jonathan, and Julie. On behalf of my colleagues, may I express appreciation for the inspirational prayer.

ANNOUNCEMENT OF DEATH OF WESLEY D'EWART

Mr. SHOUP. Mr. Speaker, I would like to call to the attention of my colleagues the recent death of former Congressman Wesley D'Ewart of Montana. I have arranged a special order on September 19, at which time those Members who wish to make commemorative remarks may do so.

MILITARY UPRISING IN CHILE

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

Mr. FASCELL. Mr. Speaker, we have just received confirmation from the State Department on the wire service reports that following a naval uprising in Valparaiso, Chile, earlier this morning, the heads of the three branches of the armed forces and the chief of the national police have issued an edict calling on President Allende to turn over the Government to the armed forces and police.

The edict refers to the social and economic crisis in Chile and the Government's inability to deal with that problem, and also expresses concern for the growth of armed groups in that country which inevitably would lead to civil war.

Reportedly also, the President had until 11 o'clock to make up his mind or the palace would be bombed. The latest wire service report indicates that indeed the palace is under attack.

Radio reports monitored out of Argentina said that the first Marxist Government in the Western Hemisphere has been toppled. That has not been confirmed. Strife still rages in Chile.

MILITARY WASTE ON SALE OF UNIFORMS

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

Mr. BROOMFIELD. Mr. Speaker, I rise to inform the House of a deplorable and wasteful policy of the Department of Defense which would be laughable if it were not costing taxpayers millions of dollars.

In an effort to demilitarize surplus uniforms that are sold to the public, the services have been requiring that they be literally ripped and torn to shreds before the purchaser can take delivery.

Millions of pounds of overcoats, trousers, shirts, and raincoats have been fed into the military shredder. As scrap, they return to the Government only 2 to 3 cents a pound. If sold whole, they could return 10 to 20 times as much.

I was first notified of this situation by Mr. Nathan Feldman, a constituent of mine from Birmingham, Mich. He has shown me examples of brand new uniforms and nonuniform items, like woolen blankets, that have been destroyed.

I have requested the General Accounting Office to conduct an investigation. Uniforms could easily be demilitarized short of mutilation by removing military buttons and insignias.

This morning I was informed of still another huge sale of uniforms that will be destroyed before they are sold. In Richmond, Va., 200,000 pounds of trousers and costs will be open for bid next month. Under present conditions, I will be surprised if the military gets enough money to cover its own costs, for handling, baling and storing the clothes.

At a time when the cost of wool and, therefore, uniforms has reached record levels the military is somehow managing to lose money selling valuable material. The record speaks for itself. I have described only the tip of an iceberg. It borders on being a national disgrace.

I have requested that the Defense Department, the appropriate services and the Defense Supply Agency withdraw all present sales until they rescind this ridiculous policy.

CONFERENCE REPORT ON H.R. 7645, DEPARTMENT OF STATE AUTHORIZATION, 1973

Mr. HAYS. Mr. Speaker, I call up the conference report on the bill (H.R. 7645) to authorize appropriations for the Department of State, 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 Ohio?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, did I correctly understand that the gentleman from Ohio has asked unanimous consent that the report be considered as read and that the statement of the managers be read in lieu thereof?

Mr. HAYS. I have not done that yet. I called up the conference report and asked unanimous consent that the statement be read in lieu of the report.

Mr. GERALD R. FORD. Mr. Speaker, I will have to object on the ground that I do wish to make a point of order after the report has been read. As I understood the gentleman's unanimous consent request, it would bypass the reading of the report. Is that correct?

The SPEAKER. If the request is granted, the gentleman can make his point of order before the statement of the managers is read.

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

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

There was no objection.

POINT OF ORDER

Mr. GERALD R. FORD. Mr. Speaker, I make a point of order against section 13 of the conference report, and I should like to be heard on the point of order.

The SPEAKER. The Chair will hear the gentleman.

PARLIAMENTARY INQUIRY

Mr. SIKES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman from Michigan yield for a parliamentary inquiry?

Mr. GERALD R. FORD. I yield for a parliamentary inquiry.

Mr. SIKES. Mr. Speaker, I will have a similar point of order against section 10 of the bill. Am I protected in my right to raise that point of order subsequent to the disposition of the point of order on section 13?

The SPEAKER. After the first point of order is disposed of, Members may be recognized to make additional points of order on other matters.

Mr. SIKES. I thank the Chair.

Mr. GERALD R. FORD. Mr. Speaker, I make a point of order that the matter contained in section 13 of the substitute offered by the Conference Committee and accepted by the House Conferees would

not have been germane to H.R. 7645 under clause 7, rule XVI if offered in the House and is therefore subject to a point of order under clause 4, rule XXVIII.

My point of order is specifically lodged against the language in section 13 of the conference substitute which reads as follows:

ACCESS TO INFORMATION

SEC. 13. (a) After the expiration of any thirty-five-day period which begins on the date the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives has delivered to the office of the head of the Department of State, the United States Information Agency, the Agency for International Development, the United States Arms Control and Disarmament Agency, ACTION, or the Overseas Private Investment Corporation, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report of other material in its custody or control relating to such department, agency, or corporation, none of the funds made available to such department, agency, or corporation, shall be obligated unless and until there has been furnished to the committee making the request the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested.

(b) The provisions of subsection (c) of this section shall not apply to any communication that is directed by the President to a particular officer or employee of any such department, agency, or corporation or to any communication that is directed by any such officer or employee to the President.

(c) Subsection 634(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394(c)) is amended—

(1) by striking out "(1)"; and

(2) by striking out all after the phrase "so requested" and inserting in lieu thereof a period and the following: "The provisions of this subsection shall not apply to any communication that is directed by the President to a particular officer or employee of the United States Government or to any communication that is directed by any such officer or employee to the President."

I make my point of order on the grounds that this language is in violation of rule XXVIII, clause 4(a) which provides in brief that if a conference substitute contains language which, if originally offered in the House, would be nongermane under rule XVI, clause 7, a valid point of order lies against the conference report.

In the instance at hand the House originally considered H.R. 7645 on June 7, 1973.

When that bill passed the House there was no comparable provision such as section 13 of the conference report. The text of H.R. 7645 as it was reported to and considered in the House is as follows:

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 "Department of State Appropriations Authorization Act of 1973".

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1974, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for the "Administration of Foreign Affairs", $282,565,000;

(2) for "International Organizations and Conferences", $211,279,000;

(3) for "International Commissions", $15,568,000;

(4) for "Educational Exchange", $59,800,000;

(5) for "Migration and Refugee Assistance", $8,800,000.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated for the Department of State for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $9,328,000 for increases in salary, pay, retirement, or other employee benefits authorized by law;

(2) not to exceed $12,307,000 for additional overseas costs resulting from the devaluation of the dollar; and

(3) not to exceed $1,165,000 for the establishment of a liaison office in the Peoples Republic of China.

(c) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Department of State $50,000,000 for protection of personnel and facilities from threats or acts of terrorism.

(d) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Secretary of State for the fiscal year 1974 not to exceed $36,500,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, relating to Russian refuge assistance.

(e) Appropriations made under subsections (a), (b), and (c) of this section are authorized to remain available until expended.

TRANSFER OF APPROPRIATION AUTHORIZATION

SEC. 102. Any unappropriated portion of the amount authorized to be appropriated for the fiscal year 1974 under any of the paragraphs (1) through (5) of section 101(a) of this Act may be appropriated, in addition to the amount otherwise authorized for such fiscal year, under any of the other paragraphs in that section; except that the aggregate of amounts appropriated under any such paragraph shall not exceed by more than 10 per centum the amount authorized by such paragraph for such fiscal year.

INTERPARLIAMENTARY UNION

SEC. 103. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276), is amended—

(1) by striking out "$102,000" and inserting in lieu thereof "$120,000";

(2) by striking out "$57,000" and inserting in lieu thereof "$75,000".

STUDY COMMISSION RELATING TO FOREIGN POLICY

SEC. 104. Section 603(b) of the Foreign Relations Authorization Act of 1972, relating to the reporting date for the Commission on the Organization of the Government for the Conduct of Foreign Policy, is amended by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1975".

USE OF FOREIGN CURRENCY

SEC. 105. Subsection (b) of section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754) is amended—

(1) by striking out "$50" in the first sentence of such subsection and inserting in lieu thereof "$75"; and

(2) by striking out "published in the Congressional Record" in the last sentence of such subsection and inserting in lieu thereof "available for public inspection".

AMBASSADORS AND MINISTERS

SEC. 106. From and after the date of enactment of this Act, each person appointed by the President as ambassador or minister shall, at the time of his nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such person and by members of his immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of his nomination and ending on the date of his nomination, which report shall be verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. The preceding sentence shall not apply with respect to any person who, during the three-year period ending on the date of his nomination, has performed continuous and satisfactory service as an officer or employee in the Foreign Service of the United States under the provisions of the Foreign Service Act of 1946, or in any case in which the personal rank of ambassador or minister is conferred by the President in connection with special missions for the President of a limited and temporary nature of not exceeding six months. As used in this section, the term "contribution" has the same meaning given such term by section 301(e) of the Federal Election Campaign Act of 1971, and the term "immediate family" means a person's spouse, and any child, parent, grandparent, brother, or sister of such person and the spouses of any of them.

The question at hand then is whether section 13 of the conference report would be germane if offered as an amendment to H.R. 7645, as reported to the House.

I say it would not be germane for these three reasons:

First, it is not consistent with the fundamental purpose of the bill—the title of which is to "authorize appropriations for the Department of State, and for other purposes."

The language in section 13, on the other hand, deals with substantive matters and duties concerning access to certain information and is clearly not related to "authorizations for appropriations."

It is well established that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911).

The second reason this provision is not germane is that it proposes to amend the Foreign Assistance Act of 1961 (22 U.S.C. 2394(c)), but H.R. 7645 as reported to the House contained no language amending that statute.

H.R. 7645 contained only four sections dealing with authorizations (Sec. 101), transfer of appropriations authorization (Sec. 102), use of foreign currency including amendments to the Mutual Security Act of 1954 (Sec. 103), and provisions dealing with the appointment of ambassadors and ministers (Sec. 104).

In addition, there were two committee amendments dealing with the International Parliamentary Union and a Study Commission on Foreign Policy.

Thus, it is clear that an amendment including the language of section 13 of the conference report which proposes to amend a statute not amended by the text of H.R. 7645 as reported to the House would be nongermane. (Chairman Flynt, February 23, 1972, pp. 5221, 5222.)

It is indeed well established that while a committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment (V, 5825).

Third. Furthermore, any amendment must be germane to the portion of the bill to which it is offered (V, 5822; VIII,

2927, 2931; Chairman Natcher, July 14, 1970, p. 24033–35).

The language of section 13 would not meet this test if offered to any of the 4 sections of H.R. 7645.

For these reasons, Mr. Speaker, I make my point of order against the conference report.

(Mr. GERALD R. FORD asked and was given permission to revise and extend his remarks and include extraneous material.)

The SPEAKER. Does the gentleman from Ohio (Mr. HAYS) desire to be recognized on the point of order?

Mr. HAYS. I do, Mr. Speaker.

Mr. Speaker, section 13 deals with the access to information necessary to committees to conduct their business. Rule XI, clause 28, spells out the responsibility of the standing committees of the House, and I will especially refer to 28(d) and 28(e).

Section 13 will enable the committee to discharge the responsibilities placed upon it by this rule.

The Senate amendment was applicable to the General Accounting Office, and any committee of Congress having jurisdiction over matters relating to the Department of State and the United States Information Agency, AID, the U.S. Arms Control and Disarmament Agency, ACTION, or the Overseas Private Investment Corporation.

When we go into a conference, we have to compromise somehow or other. We felt that the section was much too broad, and that we could not confer these powers on other committees. We insisted on limiting the application of the section to the two committees most intimately concerned, namely, the Committee on Foreign Affairs of the House, and the Committee on Foreign Relations of the Senate, and we went further and insisted that either of the committees could ask for information, not on the signature of the chairman alone, but after a vote by a majority of the committee.

All of the agencies enumerated in the conference report fall within the legislative oversight of the Committee on Foreign Affairs. Although this is a bill authorizing appropriations for the Department of State, that department is the principal policy-making agency in the field of foreign affairs. It gives policy guidance and administrative support to each of the others named. It assigns its personnel to work in these agencies. A great many of them are State Department personnel. Hence the committee in making an assessment of the operations of the Department of State must consider the whole range of its operations and the use of its personnel as well as the policies that result.

Rule XI, clause 28. (a) of the rule reads:

In order to assist the House in—

(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

Rule XI, clause 1(d) reads that—

Each standing committee of the House shall in its consideration of all bills and joint resolutions of a public character within its jurisdiction, endeavor to insure that—

(1) all continuing programs of the Federal Government, and of the government of the District of Columbia, within the jurisdiction of that committee, are designed; and

(2) all continuing activities of Government agencies, within the jurisdiction of that committee, are carried on;

so that, to the extent consistent with the nature, requirements, and objectives of those programs and activities, appropriations there or will be made annually.

We believe, as the committee in the other body does, that these committees could not exercise these functions under the rule without having access to the information we need.

The SPEAKER. Does the gentleman from California desire to be heard on the point of order?

Mr. MAILLIARD. Yes, Mr. Speaker, if I may.

Mr. Speaker, I would only like to add one more point to the arguments that have already been made in regard to the nongermane nature of section 13 of the conference substitute.

As can readily be seen, this provision purports to require the U.S. Information Agency, the Agency for International Development, the U.S. Arms Control and Disarmament Agency, ACTION, and the Overseas Private Investment Corporation as well as the Department of State to submit certain information to committees of this and the other body.

In the form in which H.R. 7645 was presented in the House, it dealt exclusively with authorizations for the Department of State.

From time to time the House considers authorizations for USIA, AID, ACTION, and the other international agencies as separate and distinct bills.

Thus it is clear that the authorizations for each of these agencies stands as an individual proposition.

Since it is very clear under the rule of germaneness that one individual proposition cannot be amended by another individual proposition even though the two belong to the same class (VIII, 2951–2953, 2963–2966, 3047) an attempt in the House to add an authorization for the Agency for International Development to a bill dealing with an authorization for the Department of State would be held nongermane.

Since such an amendment would be nongermane under rule 16, clause 7, it is not in order for a conference report to contain such language and still be in compliance with rule 28, clause 4.

Mr. HAYS. Mr. Speaker, I would like to respond with just one thing to the gentleman from California.

The SPEAKER. The gentleman is recognized.

Mr. HAYS. I am a little surprised that he makes this argument since he signed the conference report.

The SPEAKER. The Chair is ready to rule. The Senate amendment contained a section to permit the General Accounting Office or any committee of Congress to have access to information within the control of the Department of State and other agencies which deal with foreign affairs. The provision specified that unless the material were made available as requested no funds available to that could be obligated until the agency did comply.

The House bill contained no such provision.

The conferees have included within their agreement a provision similar to that in the Senate bill: however, it is more restrictive than the Senate version since it only gives the authority to demand such information to the Committees of Foreign Relations of the Senate and Foreign Affairs of the House.

The chair notes that certain agencies made subject to this new provision include some—such as ACTION, the U.S. Information Agency. The Arms Control and Disarmament Agency which are not authorized in this bill. The three agencies just mentioned are authorized funds by other legislation.

The chair concludes that the conference provision would not have been germane if offered to the House bill and the point of order against section 13 is therefore sustained.

MOTION OFFERED BY MR. MAILLIARD

Mr. MAILLIARD. Mr. Speaker, pursuant to the provisions of clause 4, rule XXVIII, I offer a motion.

The Clerk read as follows:

Mr. MAILLIARD moves that the House reject section 13 of the conference report.

The SPEAKER. The gentleman from California (Mr. MAILLIARD), is recognized for 20 minutes, and the gentleman from Ohio (Mr. HAYS), is recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. MAILLIARD), for 20 minutes.

Mr. MAILLIARD. Mr. Speaker, as my friend, the gentleman from Ohio (Mr. HAYS), pointed out, I did sign the conference report. It was a rushed conference, the Congress was just about to close for the August recess at the time. There were a great many issues of difference between the Senate and the House, and it was obvious that we had to accept certain Senate amendments if we were going to get a conference report at all.

Frankly, on reflection now, a month or so later, I think it probably would have been wiser had I not signed the conference report because I am convinced that this provision in the first place is nongermane and, frankly, I am tired of being in conference with the Senate Committee on Foreign Relations with a whole basketfull of nongermane amendments being attached. It seems to me, Mr. Speaker, that this is the opportunity to find out whether this new rule that we adopted is going to be effective in preventing the Senate from attaching nongermane material to House bills, as they have been doing from time immemorial. I think that is the basic issue we have here.

But, also, on merit, section 13 in my

opinion is highly dangerous and most undesirable because it would require the cutting off of funds for the operation of the State Department if after 35 days any information, excepting only communication directly to and from the President, requested by the House Committee on Foreign Affairs, or the Senate Committee on Foreign Relations, and these were not provided.

Let me give the Members just a few examples of what can easily happen. I am told, although I do not know of my own knowledge, that the Senate Committee on Foreign Relations now has a request pending in the Department of State for all of the documents involved in producing the negotiating position of the United States in the SALT talks.

Now, if those become part of the files of the committee, presumably not only all of the Senators would have access, but practically everybody on the Senate staff. If the same thing were true here in the House it would be possible to have several thousand people having access to some highly delicate information. And I do not think any of us would have any doubt that it would find its way into the press, thereby doing real injury to the security of the United States in my judgment.

If this condition is going to prevail, I am also convinced that certain things would follow therefrom. One, foreign governments would be very cautious in what they say to our representatives abroad, knowing that any report that went back to the Department of State might find its way into the public press. Our ambassadors would be very cautious as to what they say in their cables about personalities and individuals in the country in which they were accredited, or in other countries.

If the CIA had highly sensitive information, I doubt it would dare provide it to the Department of State if the Department of State were under this kind of a requirement to furnish any and all documents on any subject that might be demanded by either of these committees.

So I believe that this would do grave injury to our ability to conduct our foreign affairs. Therefore, on both grounds, one, to see if we can slow the Senate down with this mischievous habit of putting nongermane material on House bills, and, two, on the merits of the proposal itself, I hope it is rejected.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call of the House was taken by electronic device, and the following Members failed to respond:

[Roll No. 444]

Andrews, N.C.	Brown, Ohio	Davis, S.C.
Ashbrook	Burke, Calif.	Delaney
Ashley.	Chamberlain	Diggs
Badillo	Chisholm	Findley
Bell	Clark	Fish
Blatnik	Clawson, Del	Flowers
Bray	Cleveland	Ford,
Broomfield	Conyers	William D.
Fraser	McEwen	Rooney, N.Y.
Frey	McSpadden	Runnels
Gray	Mathis, Ga.	St Germain
Gubser	Milford	Steiger, Wis.
Guyer	Mills, Ark.	Stephens
Hanrahan	Mitchell, Md.	Stokes
Hansen, Wash.	Montgomery	Stratton
Heinz	Patman	Teague, Tex.
Hudnut	Powell, Ohio	Veysey
Johnson, Colo.	Reid	Waggonner
Lott	Rhodes	Young, Alaska
McDade	Riegle	

The SPEAKER. On this rollcall 376 Members have recorded their presence by electronic device, a quorum.

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

PERSONAL STATEMENT

Mr. BELL. Mr. Speaker, I was present before the Speaker struck the gavel ending the quorum call, but the electronic voting system had been deactivated.

Then I tried to gain the Speaker's attention, but he did not see me.

The SPEAKER. The gentleman from Ohio (Mr. HAYS) is recognized for 20 minutes.

Mr. HAYS. Mr. Speaker and Members of the House, I consider the upcoming vote on the motion of the gentleman from California to be perhaps one of the most important we will have in this Congress. What is really at issue here is not the germaneness or nongermaneness of the amendment, because it would have been germane in the House if we had confined it to the State Department—and I hope to do that in subsequent legislation—but the matter at issue is whether the proper committee of the Congress has the right to have access to information in its oversight capabilities.

Dr. Kissinger is telling everybody that he is going to be more open, but at the same time he is covertly fighting this amendment which would require the State Department to come up with information that the committees deem important.

We carefully protected the President and his so-called confidentiality by excluding communications between the President and any individuals in the specified agencies. The same situation exists with the so-called files on Members of Congress. The FBI is not going to surrender them pending a law from the Congress.

What we have got is super bureaucracies conducting policies that the Congress passes by law and refusing to let the Congress know what they are doing.

Mr. Speaker, I say that the matter of germaneness or nongermaneness is not the issue. It is an issue of whether the Congress has a right to know and whether the Congress has any power and whether the Congress is going to do what the American people want it to do, and that is to reassert its power and its prerogatives that were granted to it by the Constitution.

It is as simple as that, and, Mr. Speaker, I ask that we vote "no" on the gentleman's motion to reject this.

Mr. MAILLIARD. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I was relieved to hear the ruling just now by the Chair that section 13 is not germane. Of course, it is not germane on its face, I would say, and I believe the fact that this section is not germane is quite an appropriate point for discussion.

The gentleman from Ohio said that what is really involved here is the right of Congress to have access to information so that we may perform our oversight functions. My answer to that is that the Foreign Affairs Committee does not need to have unlimited access to all kinds of highly classified information in order to perform our oversight functions adequately.

Mr. Speaker, it is not a question of fighting superbureaucracy, as the gentleman from Ohio has claimed, or the right of Congress to know. Quite obviously, in order to make informed judgments, Congress needs to get adequate information. Congress normally gets such information now, but we should not be allowed, nor should we seek, a blank check to classified information.

The result would quite obviously be, as the gentleman from California has already indicated, an inability on the part of our ambassadors in foreign countries to send back to the Department of State highly sensitive information which the State Department needs to have in order to execute policy intelligently.

Mr. Speaker, I would guess that there would be an outcry if this same approach were to be used in order to pry information out of the Defense Department, I believe quite appropriately there should be an outcry at this provision.

It was suggested that perhaps Mr. Kissinger is opposed to this proposal. If he is in his right mind—and I have no doubt that he is—as the next Secretary of State, as I hope he will be, he surely should be opposed to it.

I would hope that the President also would be aware of the danger of this effort to obtain absolute freedom of access to information by certain committees of Congress. I hope he would veto such a proposal if necessary.

So, Mr. Speaker, I hope we will continue what we have begun. We should reject this proposal, not only on the grounds that it is not germane, but that it is not in our interest. This is not essential for an appropriate oversight by Congress of foreign policy matters. Its approval would quite obviously result in a short-circuiting of needed information to the State Department, because this provision would have the result of making the State Department a conduit for all sorts of sensitive information becoming public.

In conclusion, Mr. Speaker, let me add that I believe section 10 also is not germane, and I am convinced that it is most unwise. That section seeks to deny funds to carry out any executive agreement concerning the stationing of American troops overseas, or any revision or extension of such an agreement, unless the Senate has given its advice and consent or unless the agreement has been approved by a concurrent resolution.

Approval of such language, Mr. Speaker, would unquestionably make it far more difficult to get foreign governments to enter into such agreements. Furthermore Congress would be burdened with the chore of approving—or

disapproving—a great variety of agreements, many of little consequences. I must add too that there is no necessity for this kind of mandatory action on these agreements. Only last year Congress passed a law requiring the executive branch to report in detail on any executive agreements reached with foreign countries. In other words, we are already put on notice about any agreement involving the stationing of troops overseas. If we should disapprove of any such agreement. Congress could take steps to cut off funds for any project.

Mr. HAYS. Mr. Speaker, I would just like to take about 30 seconds to answer the gentleman from New Jersey.

No. 1, as I understood the Speaker's ruling, had this been confined to the State Department only, it would have been germane. We can just bet that if we have to go back to conference, we will come back with this confined to the State Department only.

The second thing is that again we have had the spectacle of a member of the committee signing the report and now coming in and trying to take out part of the report.

Mr. MAILLIARD. Mr. Speaker, I yield 1 additional minute to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Speaker, I am not sure whether the gentleman from Ohio thinks I was a conferee on this proposal. I can assure him, if he has already forgotten, that I was not a conferee. Had I been a conferee, I certainly would have objected to this language, and I certainly would not have signed the conference report.

Mr. HAYS. I am sorry, Mr. Speaker. I had understood the gentleman was a member of the conference committee, and I think possibly I made the statement inadvisedly.

Mr. MAILLIARD. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, let us look very carefully at the language of section 13 and what it would require.

It would require simply that the Department provide within 35 days to the Senate or the House Committees on Foreign Affairs or Foreign Relations any document, paper, communication, review, recommendation, and so forth, unless such document was directed specifically to the President or received from the President. Failure to comply would mean the loss of funds to the agency.

That is all-inclusive. It could have a very serious and very damaging effect on foreign policy. The day-to-day conduct of foreign relations could be crippled, because the Department would no longer be able to insure the confidentiality of diplomatic discussions unless they were held with the President. This in itself would present an impossible situation. The Department would virtually be excluded from receiving sensitive information from other Government agencies, since the law would require it to provide all information "in its custody" to the Congress.

The adoption of this language would be quite ironic, it seems, at a time when so many in the Congress want to restore the Department of State to a preeminent place in foreign policy.

Certainly we do not want now to have the Congress exclude the Department from the flow of sensitive foreign policy information. The provision would stultify free policy debate. It would encourage—listen to this—it would encourage State Department officers to play it safe and do nothing, because the provision would open all of their personnel and security office files to the Congress.

There are many people who already feel too little is being done by the Department of State in foreign affairs procedures. Let us not encourage this situation. We want the Department to be more aggressive in support of U.S. aims, not less.

The section would create mischief; it would do undue harm and restrict the operations of the State Department in a very crucial period in world history.

Mr. MAILLIARD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, I wish to join in expressing opposition to that part of the conference report on H.R. 7645 contained in section 13—which undertakes to require to a committee of the House or Senate confidential communications between the Department of State and other related agencies and any other official or Government virtually without limitation.

Mr. Speaker, in the first place, I am opposed to any provisions which seem to prefer one group or committee of the Congress over other Members and other committees with respect to access to information affecting our Nation. If there are documents or other material of interest to the Representatives of the people, it seems to me they should be made accessible to all of the Representatives of the people elected to serve in this Congress.

Mr. Speaker, a further and more important objection to the language of this section is that it would seem to make available the private, confidential, and sometimes highly sensitive communications which characterize diplomatic relations between our Nation and other nations of the world. The paragraph offends the entire field of diplomatic exchanges which must be carried on with literally hundreds of individuals in diplomatic and governmental posts throughout the world, and which must remain private and confidential if our best interests are to be served in the international community.

Mr. Speaker, even with respect to the so-called Pentagon Papers which were copied, and then exposed for publication by the New York Times and the Washington Post—several volumes which contained private diplomatic communications, were never made public. The news media in question were both astute and patriotic in declining to publish this material, and it remains private and confidential to this day. A great disservice would have been rendered to our Nation, and particularly to the late President Lyndon B. Johnson by according public access and perhaps publication of various material in these volumes. Yet, the adoption of section 13 in the conference report would seem to require that such exchanges should be made accessible to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House.

Mr. Speaker, I am glad to note that Members of the House neither originated nor endorsed this provision.

Mr. Speaker, the obvious danger in this provision is noted in the statement of the committee on conference in which it is declared that—

> Any classified material supplied will be kept under appropriate safeguards in the Committee offices . . .

This is a recognition itself that the release of the information could do irreparable damage to our foreign relations—possibly even to our national security. The inclusion of this language in the conference report is both unwise and dangerous. I urge that the House reject section 13 in giving approval to the conference report on the Department of State Appropriations Authorization Act of 1973.

Mr. MAILLIARD. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, I am not one who fails to recognize that we have an important constitutional question here which deserves the attention of the Congress. There is legislation pending before the subcommittee headed by the gentleman from Pennsylvania (Mr. MOORHEAD), on the subject. I personally have done a certain amount of research on the subject, I may say.

I think right now the Congress has the power of contempt if we want to use it in appropriate cases. We have not done this. I think it may be wise to adopt some legislation spelling out a legal procedure and a resort to the courts. There is presently a statute on the books which gives certain committees the power to demand papers from executive departments. That statute can be expanded to all committees of the Congress. Then you can add to it the court procedure to carry out that expansion.

It is also possible that we even ought to have a constitutional amendment to clarify the situation of the respective rights and duties of the executive and the legislative branches. But to try to deal with this important thing in this meat-ax way, just cutting off funds for the operation of an important part of the Government if documents, unspecified, and regardless of the circumstances, regardless of whether any of them can be privileged documents under the circumstances or not, if they are not delivered within a certain period of time is, in my respectful judgment, a stupid way to do it and a wrong way to do it.

The Department of State is a very important department of our Government. It handles our foreign affairs. Now, it ought to be amenable to due process of the Congress; and it ought to be amenable to proper statutes; and it ought to be amenable to the courts, but it should not be handled in this meat-ax fashion, and the effort to do so ought to be rejected.

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

Mr. HAYS. Mr. Speaker, I will be glad to yield the gentleman from Indiana an additional minute if the gentleman will yield to me to answer a question, or, if not, I will take a minute on my own.

Mr. DENNIS. If the gentleman from Ohio wants to yield me a minute then I will yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I would go along with the argument presented by the gentleman that there is a law on the books that the General Accounting Office should have access to any papers it deems necessary in its accounting, and it has asked for papers and it has been refused.

This is a legal way to do it.

Mr. DENNIS. Then exercise the power of contempt, or amend that statute so as to add a specific court procedure, but do not do it this way. This is a meat-ax approach.

Mr. HAYS. We voted a contempt procedure against Mr. Liddy yesterday. I will be interested to see what our courts do on that one.

Mr. DENNIS. I think they will take care of it.

The SPEAKER. The time of the gentleman from Indiana has again expired.

Mr. MAILLIARD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I support this motion to reject section 13 of the State Department conference report. I do so because I think this is the wrong time, the wrong place, and the wrong way to go about gaining access to information from the various foreign affairs agencies of the executive branch. I think my colleagues are well aware of my outspoken criticism of the abuse of the executive privilege doctrine and my cosponsorship of legislation to narrowly define and proscribe the scope of that doctrine. I am strongly committed to the attribute of legislative inquiry which has its firm foundation in our constitutional history. I think the Congress must have the fullest access possible to pertinent information from the executive branch if it is to faithfully discharge its legislative duties in a responsible and informed manner.

So, it is certainly tempting for those of us who support this concept of legislative inquiry to in turn support section 13 of this report which has the honorable objective of insuring congressional access to information. But I would suggest that we would do well to first give the most careful scrutiny to the provisions of this section—and this is hardly something we can do in the brief 40 minutes allotted us, especially without the benefit of hearings and a committee report on the provision of section 13.

I have given section 13 careful study and consideration and have concluded that if we adopt this section we would be committing an excess in attempting to gain access. This is clearly an example of legislative overkill, for what we are saying in section 13 is that if any agency involved refuses to supply even a drop of information requested, no matter how valid the reason, all their water will automatically be cut off. This form of massive retaliation even goes far beyond the Old Testament concept of vengeance: Instead of an eye for an eye, we have in section 13 a body for an eye. We are told by the proponents of this provision that such a remedy is necessary, because the power of the purse is the only power we have left. But I do not think the framers of our Constitution, in granting the Congress the power of the purse, intended that the purse strings be used as a bureaucratic garrote, designed to strangle to death any agency which does not kowtow to Congress on command.

One would think, given the drastic and extreme remedy provided in section 13, that there had been a widespread pattern and practice of denying information to the Congress on the part of the Department of State, USIA, ACDA, OPIC, and ACTION. Why else would these be singled out for such harsh sanctions? And yet, there is no such record of widespread refusals. Only two instances were cited during the debate in the other body on this provision, and apparently in both of these instances there was no followup attempt to obtain this information by the procedure of a resolution of inquiry which is already provided for in our rules.

I think section 13 raises a very serious constitutional question. For while the Constitution delegates to the Congress the authority to appropriate money for an agency, this provision would make it possible for a single committee of the Congress, by making a controversial request, to automatically terminate that appropriation.

What would be the practical effect of section 13? Let us look, for example, at the Arms Control and Disarmament Agency which would be covered by section 13. If the House Foreign Affairs or Senate Foreign Relations Committee asked for the working papers of our SALT negotiators and these were denied for national security or negotiating flexibility purposes, the funds for the agency would be cut off and our negotiators would have to pack up their bags and come home. This would certainly provide a unique alternative to the constitutionally prescribed process for negotiating and ratifying a treaty, for we would be making it possible for one committee of the Congress to terminate negotiations before a treaty is even agreed to, let alone submitted to the Senate for ratification.

Presumably, section 13 would also make it possible for the committees involved to request the notes of conversations between our diplomats and those of other nations. The committees would also be in a position to demand access to security and loyalty investigation files. In both of the examples I have just cited, past Presidents have denied the availability of such information outside the executive branch and, I think, for good and obvious reasons. And yet, by the adoption of section 13, the State Department would risk losing all of its funds if it refused requests for any of this information.

Mr. Speaker, I am not suggesting for a moment that either the House or Senate committees would intentionally make difficult and controversial requests for information simply for the purpose of closing down certain agencies. But the potential for abuse is certainly implicit in the language of section 13, and I fear it has not been drawn carefully enough to take into account certain types of information which should not be made available outside of the executive branch and to prevent the abuse of this access sanction.

In conclusion, Mr. Speaker, I think we would do well to give the subject of congressional access to information in the executive branch far more consideration than we are able to today in this brief debate on section 13. Our own Government Operations Subcommittee on Foreign Operations and Government Information has been spending months in hearings on this issue and has yet to report a bill. I do not say that in criticism but rather to emphasize the point that this is a most difficult and complex subject requiring considerable deliberation. I testified before that subcommittee, as did other Members of this body and many constitutional experts. I happen to be a cosponsor of one of the bill's authored by a member of that subcommittee, the gentleman from Illinois (Mr. ERLENBORN)—a bill which would amend the Freedom of Information Act and narrowly proscribe the scope of executive privilege. There are several other important and equally well-intentioned bills currently pending in that subcommittee. Many important issues and differences between these various bills remain to be resolved. But I am convinced we should avail ourselves of the benefit of these hearings and deliberations before acting on executive privilege and access to information legislation. We should take the more comprehensive approach as suggested in these Freedom of Information Act amendments rather than the rash and drastic approach provided in section 13 of this bill which would apply only to the various foreign affairs agencies. I, therefore, urged adoption of this motion to reject section 13.

Mr. MAILLIARD. Mr. Speaker, I yield the remaining time to the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, every Member of this body on both sides of the aisle has an interest in the maximum amount of information that is needed for us to legislate intelligently, and we have a right to get that kind of information. It has been my experience that in practically every case a responsible inquiry does result in getting the kind of information that is needed. There may be some exceptions caused partly because of the way the information is requested, or in a particularly highly sensitive area. If we do not have the right mechanism to get everything that is justifiable, I think we either ought to change the law or, as the gentleman from Indiana (Mr. DENNIS) said, perhaps change the Constitution, but it does not make sense for us in this body to accept a nongermane amendment in this area with a strong—as the gentleman from Indiana said—meat-ax approach. It would be far wiser and infinitely better

for the Committee on Foreign Affairs, or any other committee that thought it ought to have information, to come up with a legislative solution after adequate hearings and a precise focus on the problem.

Second, we have been plagued over a period of time with nongermane amendments by the other body added to legislation the House has passed. We have complained about it. We have said we would not tolerate it because the House did not have an adequate chance to consider the subject, because of its nongermaneness at the time we considered the bill. Here are two clearcut examples in section 13 and section 10.

The Chair has rightfully ruled that this amendment is nongermane, and if we now accept a nongermane amendment, I think we are making a serious error as we try to straighten out the comity between the House on the one hand and the other body on the other hand.

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

Mr. GERALD R. FORD. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding and would like to associate myself with his remarks in opposition to this meat-ax approach to our oversight responsibilities.

I should simply like to add to the distinguished minority leader's outstanding argument that this type of action, following closely on the heels of the Senate Committee on Foreign Relations' rejection of an outstanding Foreign Service officer, Ambassador MacGodley, as Assistant Secretary of State for Far Eastern Affairs, for his dedication and industry in carrying out American foreign policy with too much enthusiasm, will inevitably be interpreted as a punitive way of conducting the legitimate congressional oversight function which we can and should develop in a constructive and progressive fashion.

Mr. Speaker, I agree with Mr. FORD that Congress has a right to the type of information that we must have to legislate in an informed and intelligent way. I agree that we can develop more means to secure information. However, this approach would erode rather than enhance the work of our ambassadors in communicating sensitive and delicate diplomatic information on behalf of American foreign policy and should be rejected by voting for the amendment of the gentleman from California.

The SPEAKER. The time of the gentleman has expired.

Mr. HAYS. Mr. Speaker, I yield 3 minutes to the gentleman from California.

Mr. MOSS. Mr. Speaker, I rise to support with enthusiasm the retention of this provision. I can think of no group who has a greater responsibility to have detailed information than the committees of both Houses of this Congress which are called upon to maintain oversight and to authorize programs.

Certainly they have as great a responsibility as the massive bureaucracy which rolls on endlessly down at Foggy Bottom. This is a good way of doing that which has proven most difficult over the years. It is using the power of the Congress to authorize and to appropriate funds.

The Budget and Accounting Act of 1921 says very clearly, and it is reinforced by a succession of opinions of the Attorneys General of the United States, that the Comptroller General of the United States will determine the documents available to him for audit, and yet time and time again they are refused to the Comptroller General of the United States in utter disregard and in open contempt of the clear mandate of the law.

I have not just entered into this area as a student of the doctrine of separation. I have for over 18 years actively engaged in running battles with executives of both political faiths. For some 16 years I chaired the Subcommittee on Government Information, and I think many of the Members who served here during the active years of my chairmanship know that I did not hesitate to have head-on clashes with the executive department under Democratic Presidents.

This is a matter of the rights and the privileges of the House being asserted against the outrageous claims of the executive department of our Government.

Let me tell the Members the people of this Nation want the Members of this House to exercise those powers. Go home as I did during the recess. I took no trips outside my district. Members will find at home their people are asking: "When are you people in Congress going to start acting responsibly and take control of things away from the departments downtown?"

Now is a good time to start.

Mr. HAYS. Mr. Speaker, before yielding to the next gentleman, I just want to observe—and I hope he has not left the Chamber yet—that I was not too surprised when the gentleman from New York (Mr. KEMP) closed the discussion on the other side, because I suspect that he not only wants to have a State Department blackout of information, but he even wants to black out football games to the American people.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I find no constitutional difficulty with this section. It seems to me all this section says is that Congress will exercise that ultimate power which it has, the power of the purse, to withhold funds under this act under conditions where any of these departments refuse to produce the documents as listed: document, paper, communication, audit, review, finding, recommendation, and report or other material which may be pertinent to the question under investigation.

What is wrong with that? That is the duty of this House, to investigate and to look into those documents.

To say that the committees, in exercising their authority, will trench upon the constitutional authority of the President is to assume that the committees will ask for that which they should not ask for and cannot ask for, and cannot demand, under the Constitution. But the committee has been extra careful not to trench in that area by writing section (b). Section (b) says:

> (b) The provisions of subsection (a) of this section shall not apply to any communication that is directed by the President to a particular officer or employee of any such department, agency, or corporation or to any communication that is directed by any such officer or employee to the President.

It may be that there may be other exceptional matters that fall within the executive privilege. If there be such exceptional matters, should we assume that the responsible committees on foreign relations of both Houses will not operate wholely within the confines of their constitutional authority? I think the committees are entitled to the same respect that we attribute to the President, and perhaps their records have entitled them to a little bit more respect in this area.

But, if the committees should overstep their authority and ask for privileged material protected by the Constitution under the doctrine of separation of powers, they could still be denied such materials. If they attempted to enforce the sanctions, a mandamus would lie to pay the funds, because this bill is obviously subject to the restrictions and limitations of the Constitution itself.

Therefore, to raise what seems to me to be an entirely unfounded question, that there will be some type of trenchment on Executive power, is to assure that the committees of this House will act wrongfully. In the first place, I say that that is an assumption that is not justified. In the second place, if they did, the sanctions that are exercised could not be exercised and a mandamus would lie to pay off the funds.

It seems to me that this is an excellent use of the only ultimate power that Congress has to command information which is necessary to it to make the decisions that relate to questions of foreign policy.

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

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

Mr. DENNIS. Mr. Speaker, I thank my friend from Texas for yielding to me.

As the gentleman knows, I am sure, there is an act on the books adopted in 1928, I believe, and now section 2954 of the Annotated Code. It says:

> An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee. Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 413.

I suggest that a very simple and intelligent way to approach this matter would be merely to take this existing statute, expand it to apply to all the committees in both the bodies instead of simply the Committee on Government Operations; perhaps add a procedure section designed to enforce it, and go from there.

We do not need to proceed in this meat-ax fashion.

Mr. ECKHARDT. Mr. Speaker, is the gentleman ready for an answer to the question?

I would say that I would agree with him that such an act should be enacted, but I am a common law type lawyer and I would like to approach this thing when the issues come up and on the reasons we find convincing at that time.

Mr. HAYS. Mr. Speaker, I would like tc say in response a couple of things. One is that withholding of funds is not a new device. This administration has set new records in withholding funds which Congress has appropriated, but it surely sets up an outcry when "the shoe is on the other foot."

I do not know exactly what we may want to ask for, but it is consistent with the record of this administration in opposing this section that it has rolled out all the big guns on the other side to oppose it. Obviously, the administration does not want to be under any obligation to give any committee of Congress anything they do not want to give them, and that probably is nothing.

The gentleman from Florida made a big deal about people's personnel records being available. I think they ought to be because the only time my subcommittee has ever asked for a personnel record is about four times in the last 15 years when somebody came up and said an injustice was being done; that they were being selected out when their personnel record had nothing but good reports from their supervisors year in and year out.

I will say for the department that up to now I have not had occasion to request it of this administration, but in previous administrations they have brought them up and let us look at them and in every instance after we looked at them and they looked at them with us, they decided that they would not select the fellow out because it was inconsistent with his reports. Somebody had goofed.

I hope the gentleman is not saying we should not have the right to intervene up here on the side of justice.

If this thing is voted up—the vote I am asking for is a "no" vote—I am sure the Department, after hearing or reading the gentleman's speech, will refuse to show the committee anything.

As I said earlier, the only reason why this was ruled not germane was we took in parts of the Government that were not under the particular bill. I have talked with the chairman. Members can bet that if we have to go back to the committee we will come right back with one applying to the State Department, and it will be germane, and Members can vote up or down the conference report. We can give them some funds or do anything we want about it. It is immaterial to me.

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

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. MAILLIARD).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MAILLIARD. 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.

The vote was taken by electronic device, and there were—yeas 213, nays 185, not voting 36, as follows:

[Roll No. 445]

YEAS—213

Abdnor	Frey	Parris
Anderson, Ill.	Froehlich	Passman
Andrews, N. Dak.	Fuqua	Pettis
Archer	Gilman	Peyser
Arends	Goldwater	Poage
Armstrong	Goodling	Powell, Ohio
Bafalis	Gross	Price, Tex.
Baker	Grover	Pritchard
Bauman	Gubser	Quie
Beard	Haley	Quillen
Bell	Hammer-schmidt	Railsback
Bevill	Hansen, Idaho	Rarick
Biester	Harsha	Regula
Blackburn	Harvey	Reuss
Bolling	Hastings	Rinaldo
Bowen	Hébert	Roberts
Breaux	Heckler, Mass.	Robinson, Va.
Breckinridge	Heinz	Robison, N.Y.
Broomfield	Hicks	Roncallo, N.Y.
Brotzman	Hillis	Rousselot
Brown, Mich.	Hinshaw	Roy
Broyhill, N.C.	Hogan	Ruppe
Broyhill, Va.	Holifield	Ruth
Buchanan	Holt	Sandman
Burgener	Horton	Sarasin
Burke, Fla.	Hosmer	Satterfield
Burleson, Tex.	Huber	Saylor
Butler	Hudnut	Scherle
Byron	Hunt	Schneebeli
Camp	Hutchinson	Sebelius
Carter	Ichord	Shoup
Casey, Tex.	Jarman	Shriver
Cederberg	Johnson, Pa.	Shuster
Chappell	Jones, Okla.	Sikes
Clancy	Keating	Skubitz
Clausen, Don H.	Kemp	Smith, N.Y.
Cleveland	Ketchum	Snyder
Cochran	King	Spence
Cohen	Kuykendall	Staggers
Collier	Landgrebe	Stanton, J. William
Collins, Tex.	Landrum	Steele
Conable	Latta	Steelman
Conlan	Lent	Steiger, Ariz.
Conte	Long, La.	Talcott
Cronin	Lott	Taylor, Mo.
Daniel, Dan	Lujan	Teague, Calif.
Daniel, Robert W., Jr.	McClory	Thomson, Wis.
Davis, Wis.	McCollister	Thone
Dellenback	McKinney	Towell, Nev.
Dennis	Madigan	Treen
Derwinski	Mahon	Vander Jagt
Devine	Mailliard	Walsh
Dickinson	Mallary	Wampler
Dorn	Mann	Ware
Downing	Maraziti	Whalen
Duncan	Martin, Nebr.	Whitehurst
du Pont	Martin, N.C.	Whitten
Edwards, Ala.	Mathias, Calif.	Widnall
Erlenborn	Mayne	Wiggins
Esch	Michel	Williams
Eshleman	Miller	Wilson, Bob
Evans, Colo.	Minshall, Ohio	Winn
Fish	Mitchell, N.Y.	Wyatt
Fisher	Mizell	Wydler
Flowers	Montgomery	Wylie
Flynt	Moorhead, Calif.	Wyman
Ford, Gerald R.	Mosher	Young, Alaska
Forsythe	Myers	Young, Fla.
Frelinghuysen	Nelsen	Young, Ill.
Frenzel	Nichols	Young, S.C.
	O'Brien	Zion
		Zwach

NAYS—185

Abzug	Boggs	Collins, Ill.
Adams	Boland	Corman
Addabbo	Brademas	Cotter
Alexander	Brasco	Crane
Anderson, Calif.	Brinkley	Culver
Annunzio	Brooks	Daniels, Dominick V.
Ashley	Brown, Calif.	Danielson
Aspin	Burke, Mass.	Davis, Ga.
Badillo	Burlison, Mo.	de la Garza
Barrett	Burton	Dellums
Bennett	Carey, N.Y.	Denholm
Bergland	Carney, Ohio	Dent
Biaggi	Chisholm	Dingell
Bingham	Clark	Donohue
	Clay	Drinan
	Kyros	Rogers
	Leggett	Roncalio, Wyo.
	Lehman	Rooney, Pa.
	Litton	Rose
	Long, Md.	Rosenthal
	McCloskey	Rostenkowski
	McCormack	Roush
	McFall	Roybal
	McKay	Ryan
	Macdonald	Sarbanes
	Madden	Schroeder
	Matsunaga	Seiberling
	Mazzoli	Shipley
	Meeds	Sisk
	Melcher	Slack
	Metcalfe	Smith, Iowa
	Mezvinsky	Stanton, James V.
	Minish	Stark
	Mink	Steed
	Mitchell, Md.	Stubblefield
	Moakley	Stuckey
	Mollohan	Studds
	Moorhead, Pa.	Sullivan
	Morgan	Symington
	Moss	Symms
	Murphy, Ill.	Taylor, N.C.
	Murphy, N.Y.	Teague, Tex.
	Natcher	Thompson, N.J.
	Nedzi	Thornton
	Nix	Tiernan
	Obey	Udall
	O'Hara	Ullman
	O'Neill	Van Deerlin
	Owens	Vanik
	Patten	Vigorito
	Pepper	Waldie
	Perkins	White
	Pickle	Wilson, Charles H., Calif.
	Pike	Wilson, Charles, Tex.
	Podell	Wolff
	Preyer	Yates
	Price, Ill.	Yatron
	Randall	Young, Ga.
	Rangel	Young, Tex.
	Rees	Zablocki
	Reid	
	Riegle	
	Rodino	
	Roe	

NOT VOTING—36

Andrews, N.C.	Diggs	Patman
Ashbrook	Findley	Rhodes
Blatnik	Guyer	Rooney, N.Y.
Bray	Hanrahan	Runnels
Brown, Ohio	Hansen, Wash.	St Germain
Burke, Calif.	Johnson, Colo.	Steiger, Wis.
Chamberlain	McDade	Stephens
Clawson, Del	McEwen	Stokes
Conyers	McSpadden	Stratton
Coughlin	Mathis, Ga.	Veysey
Davis, S.C.	Milford	Waggonner
Delaney	Mills, Ark.	Wright

So the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

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

Mr. Rhodes for, with Mr. St Germain against.

Mr. Steiger of Wisconsin for, with Mr. Blatnik against.

Mr. Bray for, with Mrs. Burke of California against.

Mr. McDade for, with Mr. Conyers against.

Mr. McEwen for, with Mr. Stokes against.

Mr. Ashbrook for, with Mr. Stratton against.

Mr. Del Clawson for, with Mr. Diggs against.

Mr. Hanrahan for, with Mr. Delaney against.

Mr. Coughlin for, with Mrs. Hansen of Washington against.

Until further notice:

Mr. Davis of South Carolina with Mr. Brown of Ohio.

Mr. Mathis of Georgia with Mr. Guyer.

Mr. Mills of Arkansas with Mr. Veysey.

Mr. Wright with Mr. Findley.

Mr. Runnels with Mr. Chamberlain.

Mr. Andrews of North Carolina with Mr. Johnson of Colordao.

Mr. McSpadden with Mr. Milford.

Mr. Patman with Mr. Stephens.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

POINT OF ORDER

Mr. SIKES. Mr. Speaker, I make a point of order against section 10 of the substitute offered by the conference committee, and ask to be heard on the point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. SIKES. Mr. Speaker, I make a point of order that the matter contained in section 10 of the substitute offered by the conference committee and accepted by the House conferees would not have been germane to H.R. 7645 under clause 7, rule XVI if offered in the House and is therefore subject to a point of order under clause 4, rule 28.

Mr. Speaker, may I discuss the point of order?

The SPEAKER. The gentleman from Florida will be heard on his point of order.

Mr. SIKES. Mr. Speaker, the legislative objective of the conference report in question is the authorization of appropriation of funds for State Department operations for fiscal year 1974. The bill passed by the House (H.R. 7645) was limited in scope and directed solely at that objective. The Senate bill (S. 1248) was in the nature of a substitute resolution, which added a number of provisions, some of which would have been objectionable as nongermane in the House under clause 7 of rule XVI. The House sought a conference, and its conferees were authorized under general instructions. The resulting conference report contains provisions which are patently nongermane and, if originated in the House, would have been subject to points of order under clause 7 of rule XVI. One of these nongermane provisions is section 10.

Section 10 of the conference report provides as follows:

FOREIGN MILITARY BASE AGREEMENTS

SEC. 10. No funds may be obligated or expended to carry out any agreement entered into, on or after the date of enactment of this Act, between the United States Government and the government of any foreign country (1) providing for the establishment of a military installation in that country at which units of the Armed Forces of the United States are to be assigned to duty, or (2) revising or extending the provisions of any such agreement, unless such agreement is approved by concurrent resolution of the Congress or is submitted to the Senate for its advice and consent and the Senate gives its advice and consent to such agreement.

Again let me state: If the language of section 10 were offered as an amendment to the text of H.R. 7645 as reported to the House, it would clearly be nongermane under rule XVI, clause 7 and as such it is not in order to be included in this conference report.

Section 10 of the conference report is not germane to the "fundamental purpose" of H.R. 7645 (VIII, 2911), it amends various Defense Department laws not mentioned in H.R. 7645 as reported to the House—and thus it is "new subject" within the meaning of V, 5825—and finally, the language of section 10 is not germane to any portion of the original H.R. 7645 (VIII, 2927, 2931).

Cannon's Precedents contain a myriad of rulings down through the years on the application of the germaneness rule. Broad, general principles in point on the subject of germaneness are found in the annotations contained in Rules of the House of Representatives; for example, first, a specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (sec. 796, p. 444); second, two subjects are not necessarily germane because they are related (sec. 798, p. 455).

A 1965 ruling illustrates contemporary application of the rule in the light of classical precedents. The bill under debate was to establish a uniform Federal rule governing union security agreements—so-called right-to-work measures—and the amendment which was challenged sought to exempt members of religious groups from the applicability of certain labor-management agreements. In ruling the amendment to be nongermane, the chairman, Mr. O'Brien, stated:

It seems to the Chair that the pending bill deals only with one particular aspect of existing law and that an amendment relating to the terms of either law, including section references not within the pending bill or touching other aspects of sections 14(b), 8(a), or 705(b) not relating to the question of the right to work, would be nongermane.

The chairman reviewed certain precedents in support of his ruling and concluded with a succinct statement of the rule as follows:

The Chair would also like to direct the attention of the Committee to volume VIII of "Cannon's Precedents" of the House; sections 2946, 2947, and 2948.

In section 2946 the Chair held: "To a bill amending the Federal Reserve Act in a number of particulars an amendment relating to the Federal Reserve Act but to no portion provided for in the pending bill" was not germane.

In section 2947 the ruling was:

"To a bill amendatory of an act in several particulars an amendment proposing to modify the act but not related to the bill was held not to be germane."

In section 2948 there was a similar ruling:

"To a bill amendatory of one section of an existing law an amendment proposing further modification of the law was held not to be germane."

The Chair might also call to the attention of the Committee an even older precedent which goes back to the turn of the century. In volume V of 'Hinds' Precedents." section 5806, it was held that "to a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill" was not germane. Sections 5807 and 5808 are to similar effect.

The Chair believes that the cases cited clearly demonstrate the rule of germaneness stated in clause 7 of rule XVI. That rule provides that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

During the November 10, 1971, debate in the House on the conference report on the military procurement authorization for 1972, the application of the "germaneness rule" under clause 3 of rule XX—added by the Legislative Reorganization Act of 1970—came under considerable discussion. Mr. ARENDS introduced a motion to instruct the House conferees not to agree in conference to any nongermane Senate amendments. In support of his motion he pointed out the nongermane parts of some of the Senate amendments, which are illustrative of the general issue of germaneness. He said:

Let me briefly review some of these nongermane Senate amendments to the House-passed bill to illustrate my point.

Section 503 of the Senate amendment amends the United Nations Participation Act of 1945 by restricting the President's authority to prohibit the importation of materials determined to be strategic and critical pursuant to the Strategic and Critical Materials Stockpile Act.

This clearly is a provision which is not germane to the subject matter of the House bill and had it been offered as an amendment in the House, would have been subject to a point of order.

Section 507 of the Senate amendment states that none of the funds authorized or appropriated by this or any other act may be used for the purpose of carrying out aircraft flying operations at the U.S. Naval Air Station, Los Alamos, California, until the Secretary of Defense has submitted a report to the Congress.

The military procurement bill does not authorize operation and maintenance funds and the amendment clearly would be a restriction on funds not authorized by the military procurement bill. This, clearly would be subject to a point of order, had the amendment been offered in the House.

Section 601 of the Senate amendment sets a fixed date 6 months after the enactment of the proposed legislation for the withdrawal of all U.S. forces from Indochina subject to the release of all U.S. prisoners of war. The military procurement bill does not deal with this subject matter in any way and, thus, had section 601 of the Senate amendment been offered in the House it would clearly have been subject to a point of order.

No issue was taken as to his suggestions that these sections were nongermane. His motion failed and the conferees proceeded to conference under general instructions. The conference report omitted some of the nongermane amendments but incorporated three of those discussed in the debate on the Arends motion; that is, the Rhodesian chrome provision, the question of the limitation of assistance to Laos, and the so-called Mansfield amendment.

The House adopted House Resolution 696 which provided for the waiving of "all points of order against said conference report for failure to comply with the provisions of clause 3 of rule XX and clause 3 of rule XXVIII" and provided for a separate vote pursuant to clause 1 of rule XX upon demand on the individual nongermane sections. See CONGRESSIONAL RECORD, volume 117, part 31, pages 40479 to 40490.

Given the general acceptance of the nongermane character of the parts of the Military Procurement Authority Act of 1972 as contained in the conference report, there should be little doubt that closely analogous section 10 of the subject conference report should be considered nongermane under even the most liberal interpretation of the House germaneness rule. Aside from this general contemporary approach, the germaneness of section 10 is challengable in the following specific respects:

First. It purports to impose restrictions on funds other than those authorized by the subject conference report. (A

point similar to that raised by Mr. ARENDS with respect to section 507 of the military procurement bill, supra);

Second. It extends beyond the fundamental purpose of the original House bill committed to conference (secs. 2911 and 2997, Cannon's Precedents, and a 1966 ruling where, during debate on a bill proscribing certain picketing in the District of Columbia, an amendment to extend this proscription nationwide was declared nongermane. [CONGRESSIONAL RECORD, vol. 112, pt. 15, p. 20113];

Third. It seeks to impose restrictions of a permanent nature, yet the legislative object of this conference report is applicable only to a fiscal year. (Such amendments have been held nongermane under rulings cited in secs. 2914 and 2915, Cannon's Precedents); and

Fourth. It is not germane to the subject matter of the conference report. Section 2923, Cannon's Precedents, and section 2993, Cannon's Precedents, which contains this extract of the Chair's ruling:

To determine whether an amendment is relevant and germane, while not always easy, can best be done by applying certain simple tests. If it be apparent that the amendment proposes some modification of the bill, or of any part of it, which from the declared purposes of the bill could not reasonably have been anticipated and which cannot be said to be a logical sequence of the matter contained in the bill, and is not such a modification as would naturally suggest itself to the legislative body considering the bill, the amendment cannot be said to be germane.

Mr. HAYS. Mr. Speaker, as I said, the nongermaneness of this amendment, had it been brought up in the House, could have been avoided, but I think the House is entitled to an explanation of what it does, which is to prohibit the President from entering into foreign military base agreements he submits them to the Senate in the form of a treaty or submits them to both Houses as a concurrent resolution. It seems to me obvious from the last vote that the will of the House seems to be that the President can conduct foreign policy without any restrictions by Congress, to get us in war or out of war, or make agreements without Congress doing anything about it. I am not straining to butt my head up against a stone wall. I am sorry we did not have the votes on the other one, so I will concede the point of order.

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

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

Mr. MORGAN. I hope the House realizes that the function of the so-called Select Committee, headed by the distinguished gentleman from Missouri (Mr. BOLLING) has a major job on its hands, because plainly under rule XI, clause 7, of the rules of the House it enumerates the jurisdiction on foreign affairs, and as we interpret rule XI, clause 7, my committee has sole jurisdiction over legislation of this type.

Mr. HAYS. I agree with what the gentleman has to say, but in view of the ruling of the Chair on the preceding amendment, with this new rule that the House adopted—and I do not quarrel with the Chair's ruling—I have no alternative but to concede the point of order.

The SPEAKER. The gentleman concedes the point of order; but since this is a de nova matter of a nongermane Senate provision in the conference report, the Chair desires to state his decision.

The Senate amendment included a provision prohibiting the obligation or expenditure of funds for implementing certain military base agreements with foreign nations unless such agreements are submitted to the Senate for its advice and consent and the Senate consents thereto.

The House bill carried no such provision.

The conferees have included a modification of the Senate language which provides that military base agreements may be approved whether by passage of a concurrent resolution by both the House and the Senate or by the Senate's giving its advice and consent to an agreement.

The Chair observes that the conference language prohibits not only the use of funds authorized by the pending act but all funds available to the executive branch which might be used to carry out such agreements.

The prohibition against the use of funds would apply not only to the Department of State and the programs funded in this bill but would also relate to all agreements which might be entered into, whether or not by the Department of State. It would go to the funds authorized in Military Construction Acts and thus to funds authorized by the Committee on Armed Services.

The Chair, therefore, concludes that the amendment would not have been germane if offered to the House bill and the point of order against section 10 of the conference report is, therefore, sustained.

MOTION OFFERED BY MR. SIKES

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

The Clerk read as follows:

Mr. SIKES moves that the House reject section 10 of the conference report.

The SPEAKER. The gentleman from Florida is recognized for 20 minutes.

Mr. SIKES. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, let me state first that I regret very much to find myself in opposition to the position of the distinguished gentleman from Ohio (Mr. HAYS) who is speaking for the Committee on Foreign Affairs in support of the conference report. I know that he is a very conscientious and dedicated Member of the House. Nevertheless, I believe that the language of section 10 would cause a great deal of trouble in its administration. It would create innumerable problems in the day to day conduct of the work of Government, both within the administration and in Congress.

It has been clearly indicated that if the section remains in the State Department authorization bill, the likelihood is that the bill will be vetoed. It would seem a more practical and realistic procedure to eliminate the section now and avoid the mischief it would create.

Now let us examine it.

Section 10 of the bill entitled foreign military base agreements would cut off funds for implementing agreements permitting the establishment of military installations in foreign countries and for extending or revising such agreements, unless they are approved by two-thirds of the Senate or by concurrent resolution of the Congress.

This section impairs the ability of the Executive to respond quickly to international crises, and raises questions regarding the constitutional authority of the President to negotiate and conclude certain international agreements.

This section would even prohibit without formal congressional approval the dispatch of disaster relief units, not just combat units. The United States has 100 agreements for military facilities in some 40 countries. These agreements are usually technical and administrative covering a wide range of routine things and involving no significant foreign policy considerations. Yet the Congress would be required to debate and pass upon each of these. Such things as the agreement with the Philippines to permit private banking facilities at Clark Field Air Base or an agreement with the United Kingdom permitting construction of a road at Kindley Field in Bermuda would be treated as formal treaty agreements.

This provision is unnecessary. The Congress already participates actively in decisions to establish and maintain military installations, which cannot be constructed or operated without the congressional authorization and appropriation of necessary funds. None of the agreements covered would obligate the United States to station forces abroad. Many of the agreements covered would deal with relatively insignificant issues and extremely modest amounts of money, and many are designed as quick resolution of unforeseen but minor issues in larger programs which already have been or soon will be subject to congressional approval. They include claims, procurement of goods and services, property disposal, and all the other routine activities associated with overseas bases.

The Congress is already burdened with detail enough. Let us not delay consideration of important matters with these trivial matters. If section 10 became law, the Congress would be further encumbered with the burden of considering and debating dozens of insignificant agreements.

I urge your support in deleting section 10 from the State Department authorization bill conference report.

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

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

Mr. CEDERBERG. Mr. Speaker, I wish to associate myself with the remarks made by the gentleman from Florida. I can think of no one who has had greater experience in this area. He has stated the facts correctly.

Not only is this amendment not germane under the House rules, which on its face we would not allow, but also the issue here is a very serious and basic

issue. No hearings on this subject have been held at all that I know of in the House.

The issue comes before us as a nongermane amendment put in by the other body.

If we accept this, then I think we have done a very serious damage not only to the country; not only to the President in his carrying out of foreign policy, but to the prestige of the House itself.

Mr. SIKES. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Louisiana (Mr. HÉBERT), chairman of the Committee on Armed Services.

Mr. HÉBERT. Mr. Speaker and Members of the House, I rise to support the position taken by the gentleman from Florida. As chairman of the House Armed Services Committee, I am sure every Member can understand my opposition to a suggestion of this type. I certainly do appreciate the views of those who have perhaps some diluted view of the military. I can appreciate their positions.

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

Mr. SIKES. Mr. Speaker, I yield myself 2 additional minutes.

Mr. HÉBERT. In this particular situation here, we have perhaps a very understandable idea to do something to control the military. Yet, in its language, we have the frustration of what would develop. As the gentleman has suggested here, we have 100 commitments in 40 different countries. It would affect probably even going on dress parade, which is outside the jurisdiction of this particular commitment. It is a matter of certainly something that almost borders on the ridiculous, although at the same time I do understand the motives and objectives of those who advocate control and their justification.

Of course, I do not agree with them, but I think here is a time when the Congress now asserts its authority and expresses its ability and demonstrates its ability and should vote in favor of the opposition advanced by the gentleman from Florida.

Mr. GROSS. Mr. Speaker, there was much merit to the amendment contained in section 13 which has been rejected by the House and there is much merit to the pending amendment to the conference report known as section 10.

However, both amendments have been held by the Speaker of the House to be not germane to the subject matter of the bill. Both amendments are in this conference report because the Senate observes no rule of germaneness.

As one who has long protested actions of the Senate in attaching nongermane amendments to House bills I cannot, with consistency, vote to override the ruling of the Speaker on either of these amendments.

I hope that a way can be found to make these amendments or a variation of them germane. In that event I will vote for them.

Mr. HAYS. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the adoption of the motion offered by the gentleman from Florida (Mr. SIKES).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The motion to reject sections 10 and 13 of the conference report having been adopted, under the rule the conference report is considered as rejected.

MOTION OFFERED BY MR. HAYS

Mr. HAYS. Mr. Speaker, pursuant to clause 4, rule 28, in view of the action of the House, I offer a motion.

The Clerk read as follows:

Mr. HAYS moves that the House recede from its disagreement and concur in the Senate amendment with an amendment, as follows:

In lieu of the matter proposed to be inserted by Senate amendment insert the following:

That this Act may be cited as the "Department of State Appropriations Authorization Act of 1973".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1974, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) for the "Administration of Foreign Affairs", $282,565,000;

(2) for "International Organizations and Conferences", $211,279,000;

(3) for "International Commissions", $15,568,000;

(4) for "Educational Exchange", $59,800,000;

(5) for "Migration and Refuge Assistance", $8,800,000.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated for the Department of State for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $9,328,000 for increases in salary, pay, retirement, or other employee benefits authorized by law;

(2) not to exceed $12,307,000 for additional overseas costs resulting from the devaluation of the dollar; and

(3) not to exceed $1,165,000 for the establishment of a liaison office in the Peoples Republic of China.

(c) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Department of State $40,000,000 for protection of personnel and facilities from threats or acts of terrorism.

(d) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Secretary of State for the fiscal year 1974 not to exceed $36,500,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, relating to Russian refugee assistance.

(e) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Department of State for the fiscal year 1974 not to exceed $4,500,000 for payment by the United States of its share of the expenses of the International Commission of Control and Supervision as provided in article 14 of the Protocol to the Agreement on Ending the War and Restoring Peace in Vietnam Concerning the International Commission of Control and Supervision, dated January 27, 1973.

(f) Appropriations made under subsections (a), (b), and (c) of this section are authorized to remain available until expended.

INTERPARLIAMENTARY UNION

SEC. 3. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276) is amended—

(1) by striking out "$102,000" and inserting in lieu thereof "$120,000"; and

(2) by striking out "$57,000" and inserting in lieu thereof "$75,000".

STUDY COMMISSION RELATING TO FOREIGN POLICY

SEC. 4. Section 603(b) of the Foreign Relations Authorization Act of 1972 (22 U.S.C. 2823(b)), relating to the reporting date for the Commission on the Organization of the Government for the Conduct of Foreign Policy, is amended by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1975".

USE OF FOREIGN CURRENCY

SEC. 5. Subsection (b) of section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754) is amended—

(1) by striking out "$50" in the first sentence of such subsection and inserting in lieu thereof "$75";

(2) by inserting immediately before "appropriate committees" the following: "Members and employees of"; and

(3) by striking out the colon and all that follows thereafter in such subsection and inserting in lieu thereof a period and the following:

"Within the first ninety calendar days that Congress is in session in each calendar year, the Department of State shall submit to the chairman of each such committee a report showing the amounts and dollar equivalent values of each such foreign currency expended during the preceding calendar year by each Member and employee with respect to travel outside the United States. Such reports of that committee shall be available for public inspection in the offices of such committee."

AMBASSADORS AND MINISTERS

SEC. 6. From and after the date of enactment of this Act, each person appointed by the President as ambassador or minister shall, at the time of his nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such person and by members of his immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of his nomination and ending on the date of his nomination, which report shall be verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. As used in this section, the term "contribution" has the same meaning given such term by section 301(e) of the Federal Election Campaign Act of 1971, and the term "immediate family" means a person's spouse, and any child, parent, grandparent, brother, or sister of such person and the spouse of any of them.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

SEC. 7. (a) Section 2(2) of the Act of September 19, 1966 (80 Stat. 808; 22 U.S.C. 277d–31), is amended by striking out "$20,000" and inserting in lieu thereof "$25,000".

(b) Section 3 of the Act of August 10, 1964 (78 Stat. 386; 22 U.S.C. 277d–28), is amended by striking out "$20,000" and inserting in lieu thereof "$30,000".

(c) The last paragraph of the Act of September 18, 1964 (78 Stat. 956; 22 U.S.C. 277d–29), is amended by striking out "$23,000" and inserting in lieu thereof "$50,000".

EXTENSION OF PUBLIC LAW 92–14

SEC. 8. Section 2 of the Act entitled "An Act to authorize the United States Postal Service to receive the fee of $2 for execution

of an application for a passport", approved May 14, 1971 (85 Stat. 38; Public Law 92–14), is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

SEC. 9. There is established within the Department of State a Bureau of Oceans and International Environmental and Scientific Affairs. In addition to the positions provided under the first section of the Act of May 26, 1949, as amended (22 U.S.C. 2652), there shall be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, appointed by the President, by and with the advice and consent of the Senate, who shall be the head of the Bureau and who shall have responsibility for matters relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs.

FOREIGN SERVICE PROMOTIONS

SEC. 10. Section 623 of the Foreign Service Act of 1946 (22 U.S.C. 906) is amended to read as follows:

"RECOMMENDATIONS FOR PROMOTIONS

"SEC. 623. (a). The Secretary shall establish, with the advice of the Board of the Foreign Service, selection boards to evaluate the performance of Foreign Service officers; and upon the basis of their findings, which, except for career ambassadors and career ministers, shall be submitted to the Secretary in rank order by class or in rank order by specialization within a class, the Secretary shall make recommendations in accordance with the findings to the President for the promotion of Foreign Service officers. No person assigned to serve on any such board shall serve in such capacity for any two consecutive years. In special circumstances, however, which shall be set forth by regulations, the Secretary shall have the authority to remove individual names from the rank order list submitted by the selection boards or to delay the inclusion of individual names until a subsequent list of nominations is transmitted to the President.

"(b) The Secretary may, pursuant to a recommendation of a duly constituted grievance board or panel or an equal employment opportunity appeals examiner—

"(1) recommend the President the promotion of a Foreign Service officer;

"(2) promote Foreign Service Staff personnel and Foreign Service Reserve officers with limited or unlimited tenure; and

"(3) grant a Foreign Service personnel additional step increases in salary, within the salary range established for the class in which an officer or employee is serving.

"(c) The Secretary may, in special circumstances which shall be set forth in regulations, make retroactive promotions and additional increases in salary within class made or granted under the authority of this section."

REIMBURSEMENT FOR DETAILED STATE DEPARTMENT PERSONNEL

SEC. 11. (a) An Executive agency to which any officer or employee of the Department of State is detailed, assigned, or otherwise made available, shall reimburse the Department for the salary and allowances of each such officer or employee for the period the officer or employee is so detailed, assigned, or otherwise made available. However, if the Department of State has an agreement with an Executive agency or agencies providing for the detailing, assigning, or otherwise making available, of substantially the same numbers of officers and employees between the Department and the Executive agency or agencies, and such numbers with respect to a fiscal year are so detailed, assigned, or otherwise made available, or if the period for which the officer or employee is so detailed, assigned, or otherwise made available does not exceed ninety days, no reimbursement shall be required to be made under this section.

(b) For purposes of this section, "Executive agency" has the same meaning given that term by section 105 of title 5, United States Code.

OVERSEAS KINDERGARTEN EDUCATION ALLOWANCE

SEC. 12. Section 5924(4)(A) of title 5, United States Code, is amended by inserting immediately before "elementary" the following: "kindergarten,".

REQUIREMENT FOR CONGRESSIONAL AUTHORIZATION FOR THE INVOLVEMENT OF AMERICAN FORCES IN FURTHER HOSTILITIES IN INDOCHINA, AND FOR EXTENDING ASSISTANCE TO NORTH VIETNAM

SEC. 13. Notwithstanding any other provision of law, on or after August 15, 1973, no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia, unless specifically authorized hereafter by the Congress. Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

LIMITATION ON PUBLICITY AND PROPAGANDA PURPOSES

SEC. 14. No appropriation made available under this Act shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

(2) to influence in any way the outcome of a political election.

HOUSING SUPPLEMENT FOR CERTAIN EMPLOYEES ASSIGNED TO THE U.S. MISSION TO THE UNITED NATIONS

SEC. 15. The United Nations Participation Act of 1945 (22 U.S.C. 287) is further amended by adding the following new section at the end thereof:

"SEC. 9. The President may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code—

"(1) grant any employee of the staff of the United States Mission to the United Nations designated by the Secretary of State who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the Metropolitan New York, New York, area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent area; and

"(2) provide such allowance as the President considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

Not more than forty-five employees shall be receiving an allowance under paragraph (1) of this section at any one time."

MUTUAL RESTRAINT ON MILITARY EXPENDITURES

SEC. 16. It is the sense of the Congress that the United States and the Union of Soviet Socialist Republics should, on an urgent basis and in their mutual interests, seek agreement on specific mutual reductions in their respective expenditures for military purposes so that both nations can devote a greater proportion of their available resources to the domestic needs of their respective peoples; and, the President of the United States is requested to seek such agreements for the mutual reduction of armament and other military expenditures in the course of all discussions and negotiations in extending guaranties, credits, or other forms of direct or indirect assistance to the Soviet Union.

EXPRESSION OF INDIVIDUAL VIEWS TO CONGRESS

SEC. 17. Section 502 of the Foreign Relations Authorization Act of 1972 (2 U.S.C. 194a) is amended by striking out "appointed by the President, by and with the advice and consent of the Senate, to a position in" and inserting in lieu thereof "or employee of".

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

I will explain to the House that this is simply the conference report deleting the two amendments which the House has turned down.

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

There was no objection.

Mr. HAYS. Mr. Speaker, as I have just said, this is to get the conference report back to the conferees. We are taking it back to the Senate conferees without the two sections, 10 and 13, which the House deleted. We will explain to them that the House refused to accept them.

We will see what we can do from there.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2096, DISCRIMINATORY IMPOSTS ON WINE

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 466 and ask for its immediate consideration.

The Clerk read the resolution as follows.

H. RES. 466

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may

have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 466 provides for an open rule with 2 hours of general debate on H.R. 2096, a bill to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine.

House Resolution 466 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment.

H.R. 2096 abolishes discriminatory taxes, license fees, and other discriminatory burdens imposed by some States on wines produced outside of the State, or from materials produced outside of the State. The bill requires that each State treat any such wine as favorably as any other wine of the same class sold in the State.

H.R. 2096 makes a congressional finding that the imposition by one State of discriminatory taxes or other measures on wine produced in other States, obstructs commerce among the several States.

Mr. Speaker, I urge adoption of House Resolution 466 in order that we may discuss and debate H.R. 2096.

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

Mr. Speaker, I agree with the remarks just made by the gentleman from California concerning the rule. However, I do not share his enthusiasm for the passage of this legislation. It is really not an open and closed matter as the gentleman's remarks would indicate.

I wished that—the minority views which appear on page 15—would have listed the so-called control States in the Nation. These are States which maintain State stores for the sale of alcoholic beverages within the confines of their borders. They all happen to oppose this legislation and there are 18 of them.

The States of Alabama, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming are all "control" States.

Mr. Speaker, after the "control" States took a position against this legislation before the committee, an attempt was made—and I emphasize the word "attempt"—to overcome their objections. However, as reported in the minority views, the differences were not resolved to the satisfaction of these "control" States.

I believe it is most important that Members know the position of their States on this legislation, and how they are going to be affected, because most of the so-called "control" States will be adversely affected by this legislation. I believe it behooves all Members to pay close attention to the debate on this bill.

I do not happen to believe that we ought to oppose the rule. We should listen to the debate on the legislation and then vote according to the best interests of our individual States, as this is not a so-called national bill.

There are States, and I do not want to name them, which will benefit by the passage of this legislation much to the detriment of their sister States.

Mr. Speaker, I have no further requests for time.

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.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 9553, THE SPORTS BLACKOUT BILL

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on the bill, H.R. 9553, as amended, the Sports Blackout bill.

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

There was no objection.

DISCRIMINATORY IMPOSTS ON WINE

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2096), with Mr. FUQUA 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 West Virginia (Mr. STAGGERS) will be recognized for 1 hour, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 1 hour.

The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, the issue in this bill is very simple. Simply stated, the purpose of H.R. 2096 is to prohibit any State from imposing discriminatory burdens on wines produced outside the State or from materials produced outside of the State.

In summary, the bill would—

First. Make a congressional finding that the imposition by one State of discriminatory taxes or other measures on wine produced in other States, and the imposition of unreasonable requirements for shipment into and sale or distribution of wine in a State, obstructs commerce among the several States (section 1(a));

Second. Make a congressional declaration that the legislation is enacted as an exercise of the power conferred on Congress by article I, section 8, clause 3 of the U.S. Constitution to regulate commerce among the several States—the commerce clause (section 1(b));

Third. Prohibit any State from imposing discriminatory taxes or other discriminatory measures on wines produced (a) outside of the State, or (b) from materials produced outside of the State (section 2);

Fourth. Make clear that each State retains the right to engage in the purchase, sale, or distribution of wine and the right to exercise business discretion in the selection and listing of any wines purchased, sold, listed, or distributed by the State (section 3);

Fifth. Give any interested person standing to file suit in a district court of the United States of competent jurisdiction to enjoin any discriminatory measures proscribed by the legislation (section 4).

Mr. Chairman, I see no purpose in detailing the decisions of the Supreme Court which make this legislation necessary, they are set out in the committee's report on the bill. The executive agencies which have reported on the merits of the legislation indicate they are in accord with its objectives. The Justice Department in its report states that it will require the Supreme Court to reverse a line of precedents of the Supreme Court which were based on an erroneous impression as to the purpose of section 2 of the 21st amendment to the Constitution. I should note that these reports were all received after the report on the legislation was filed and are, therefore, not to be found in the report.

Mr. Chairman, it is seldom that in considering legislation in this House that we can relate its purpose directly to our constitutional scheme. However, it can be done in the case of H.R. 2096. As students of our history know after the conclusion of the Revolutionary War the Thirteen Colonies entered into Articles of Confederation which were the supreme law of the United States from March 1781 until the Constitution was adopted in 1789. One of the essential defects in the articles was that they established 13 separate economic systems—1 for each of the original 13 States. The system was unworkable and intolerable. The trade barriers which have been established by some States under the Court's mistaken interpretation of section 2 of the 21st amendment return us to the Articles of Confederation insofar as wine is concerned. Enactment of the legislation now under consideration by the House is necessary to correct that.

Mr. Chairman, I am not one who fa-

vors the consumption of alcoholic beverages. But as alcoholic beverages go certainly wine is to be preferred to most others. My purpose in supporting the legislation now under consideration by the House has nothing to do with the desirability of wine drinking, it is based on my belief that discriminatory trade barriers which have been established by some States with respect to wine are contrary to the Constitution and our system of government and should not be permitted to continue.

Mr. Chairman, I hope H.R. 2096 will be enacted by the House.

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

Mr. STAGGERS. Yes, I will be happy to yield to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I am not taking a position one way or the other at this moment.

The reason for the so-called special tax in a State like mine is that the taxpayers in the State pay real estate taxes and the other State taxes which are pertinent to Pennsylvania law, and our State store closed system is financed by the State government. We do not charge any different markup on wines coming into the State than we do on domestic or State wines.

The only thing we have is a shelf tax which is charged to other States which do not pay taxes in Pennsylvania for the State's shelves that are provided by the people.

That has been going on for many years all over the country. For instance, in one State they have a 5-cent tax on cigarettes and in another 13 or 14 cents tax. So one State has a different problem with taxing limitations.

But so far as wine is concerned, we do not believe it is discriminatory against out-of-State wines when we place a shelf tax for the use of space provided by the State's taxpayers to out-of-State users of that shelf.

It is the same as our highways. We have a State tax on highways, but we have a partial tax for license plates and licenses for cars going over our highways. West Virginia, your own State, taxes gasoline or, if you do not buy the gasoline, you pay some taxes on the amount of gasoline you would have used in your vehicle going through the State of West Virginia.

So they have created a body of law in studying the relationship on out-of-State products or facilities. It is not a question, as I say, of our trying to discriminate but a question as to whether or not a State can provide facilities paid for by the taxpayers of that State and provide them free for competitors of the other State for the same product. That is what it amounts to.

Mr. STAGGERS. The gentleman misunderstands the whole proposition.

Mr. DENT. I do?

Mr. STAGGERS. Because the law does not say you pay anything. Your State does not have to buy another State's wines and put them on its shelves.

Mr. DENT. Just a minute.

Mr. STAGGERS. No, sir.

Mr. DENT. They do not have to buy if they are going to pay for the products of that State. We do not make one-tenth of 1 percent of the wines that we use.

Mr. STAGGERS. You do not have to buy potatoes from Idaho or Maine, either, but you do because the people want to buy them. The commerce clause of the Constitution says that you do not place barriers on commerce between the States.

Mr. LATTA. Will the gentleman yield?

Mr. DENT. Let me finish my point.

Will the gentleman yield to me to let me finish one point?

Mr. STAGGERS. I yield to the gentleman.

Mr. DENT. That claim of no rights by the State is absolutely out the window. If I buy a bottle of whisky in the city of Washington and take it into Pennsylvania, I have either got to meet the Pennsylvania charges against that purchase and tariff, which is a barrier against my buying in Washington, D.C., or Maryland. What kind of a deal is that?

Mr. STAGGERS. Just a minute, the gentleman misunderstands.

Mr. DENT. I am not misrepresenting anything but giving you the truth.

Mr. STAGGERS. Let me tell you the facts of the thing.

If you are going to try to impose barriers between States on everything grown in the United States, you will create problems.

You talked about cigarettes. No State can tax cigarettes from various States. A State puts on the tax after the cigarettes are brought in. It is the same on cigarettes from each of the different States.

Mr. LATTA. Will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. LATTA. I do not quite follow the gentleman's statement about the constitutionality of the matter, because the second section of the 21st amendment specifically requires the States clearly to do what they are doing and the Supreme Court decision interpreting this provision since that time has given the States the right to do what they are now doing.

What you are proposing to do by this legislation is to overturn section 2 of the 21st amendment to the Constitution.

I think you are arguing that the drafters of the amendment did not know what they were doing when they gave the States the right they now enjoy.

Mr. STAGGERS. I believe the gentleman is completely wrong. I will yield to the distinguished lawyer from the State of Texas to answer.

Mr. LATTA. I cannot agree with the gentleman's interpretation.

Mr. STAGGERS. I can give an answer to it, but I think the gentleman from Texas is one of the most distinguished constitutional lawyers in this House, and I yield to him for an answer.

Mr. ECKHARDT. Mr. Chairman, I thank the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS). I doubt that I deserve that credit.

I would say this: That we are not trying to overturn constitutional determinations that the Constitution permits the kind of taxes involved here. What we are trying to say is that we in Congress have the right to prevent a burden on interstate commerce in that our act in so doing is not unconstitutional. We are not in any way trying to reinterpret any constitutional decisions to the effect that the States may under existing provisions of the Constitution and under present law limit or encumber importation of wine, but we, on our part certainly have the right to pass legislation which prevents a burden on interstate commerce.

I think the points that were made here a minute ago that there can be a special shelf tax put on wine or some kind of special encumberance placed on a product made out of State, and this should be permitted, is entirely invalid. We certainly could not put such a tax on steel produced in Pennsylvania or oil produced in Texas because it would obviously be a burden on interstate commerce.

So what we are attempting to do here is to prevent the Balcanization of the rest of the country in an area in which an interpretation of an amendment which was solely passed for the purpose of permitting prohibition locally is applicable. What we are trying to do is prevent an economic barrier with respect to this particular type of product from being imposed by virtue of the permissive provisions of the end section of the 21st amendment.

It is an anomaly in the first place that alcoholic beverages are not subject to absolute prohibitions in the Constitution against a burden on interstate commerce, and we are simply abolishing that anomaly. But we are certainly not attempting to do anything which overrules the Supreme Court with respect to its decisions.

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

Mr. STAGGERS. I will not yield, but I will permit the gentleman from North Carolina (Mr. BROYHILL) to yield. I will yield to the gentleman from North Carolina so that he can yield to the gentleman from Ohio.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I think it is most important that we clear up this matter. I want to thank the gentleman from Texas (Mr. ECKHARDT) for his remarks. I think the gentleman has correctly, adequately, and completely referred to constitutional interpretations on this matter, and I hope that the gentleman from West Virginia (Mr. STAGGERS) was listening.

Mr. Chairman, I would like to read a paragraph from a letter from the Department of Justice mailed to the Honorable HARLEY O. STAGGERS on July 18, 1973. The next to the last paragraph reads as follows:

> Nevertheless, we feel it appropriate to inform the Committee that if the Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for this legislation to be sustained. The Court noted recently that it had never squarely determined how the Amendment affects the power of Congress under the commerce clause. *Heublein* v. *So. Carolina Tax Commission*, 409 U.S. 275, 282 note 9.

I repeat, this paragraph was contained in a letter sent to the chairman of the committee by the Department of Justice.

I think the proponents are attempting, as I said previously, to do by statute what has not been done by the Constitution itself. And the States have every right under the Constitution to do what they have been doing. If we are going to amend the Constitution we ought to do it by proper process rather than by statute.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, today the House is debating H.R. 2096, the so-called wine bill. I oppose this legislation. During our committee deliberations, there appeared several flaws in this proposal. These flaws remain uncorrected.

The stated purpose of this proposal is to "eliminate the obstructions to the free flow of commerce in wine" by setting aside State laws which supposedly establish artificial trade barriers to the merchandising of wine. However, in practice, this bill does much more. This legislation, if passed by Congress would overturn many existing State laws and regulations which were enacted to control the purchase, storage, distribution and sale of alcoholic beverages in line with the preferences of that State's citizens.

These laws include, such long standing, State measures as the system of providing and regulating State liquor licenses as a condition of doing business in intoxicating liquors within the State, tax schemes in regard to alcoholic beverages and numerous other measures designed to control the traffic in liquors within the individual States.

An even more basic objection to the bill is that it attempts to take from the States those rights guaranteed to them by section 2 of the 21st amendment to the Constitution of the United States.

H.R. 2096 provides that wherever the law of any State permits the importation of wine, that State may not impose any requirements on wine produced outside the State which are not equally applicable to wine produced in such State. The bill further provides that any State which permits the sale of wine shall permit the importation of wine produced outside the State for sale upon terms equally applicable to all similar wines sold in the State.

There are presently 18 "control" States within the United States including my own State of North Carolina. These are States which have voluntarily chosen to have the alcohol beverage business in their State conducted by the State government. These States have enacted laws and regulations to control the purchase, storage, distribution, and sale of alcoholic beverages.

The procedures which these States employ in selecting the wines to be stocked and sold are commonly referred to as "listing" procedures.

It is obvious that due to capital, marketing, and storage space limitations the States simply cannot accept for listing all of the alcoholic beverage items, including thousands of wine items alone, offered from time to time. The purchasing agency must use extreme care in selecting those items for which a public demand has been demonstrated or can be reasonably expected, and which will, therefore, have an acceptable turnover. It is at this point that a great potential for being charged with discrimination occurs. Inasmuch as a sales operation can accommodate only a limited number of items, the States of necessity, have had to adopt regulations prescribing limitations on the number of items of the same type, quality, class, proof, size, et cetera, which may be listed.

The effect of this legislation on the 18 control States would be to severely restrict their rights to select and control the amount and kinds of wines that are transported into their territories and the application of this legislation would inevitably lead to the destruction of the States' wine business.

EFFECT ON NONCONTROL STATES

In those States which have chosen to have their alcohol beverage business conducted by private interests, private interests are free to purchase and stock whatever wines they desire. They may mark up wines in a discriminatory manner if they wish and refuse to carry particular wines for any reason.

However, in those States which have chosen to have their alcohol beverage business conducted by the State governments, the situation would be entirely different if this legislation were to become law. Inasmuch as only the State government can legally import and sell wines within a control State, a refusal by such a State to contract for the purchase of a particular wine could be held as a violation of the provisions of this legislation. This sort of legal discrimination against the 18 control States and their citizens is simply unacceptable.

There is, however, an even more basic objection to H.R. 2096. That objection, as I mentioned earlier, is that the bill attempts to take from the States those rights guaranteed to them by section 2 of the 21st amendment to the Constitution.

Section 2 of the 21st amendment to the Constitution of the United States is as follows:

> The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

The Supreme Court has consistently held that the language of this amendment clearly leaves the States free to control the importation of and traffic in liquors within their boundaries. In a series of interpretative decisions rendered shortly after ratification of that amendment, the Court said that States have the authority and right under the 21st amendment to adopt legislation discriminating against intoxicating liquors imported from other States in favor of those from the home State. The Court has also said that such discrimination is not limited by the Commerce Clause.

In the case of *State Board of Equalization of California* v. *Young's Market Company*, 299 U.S. 59 (1936), it was argued that it would be a violation of the commerce clause and of the equal protection clause for a State to require a fee of persons importing beer from oustide the State.

STATE UPHELD

Pointing out that such discrimination would have violated the commerce clause before adoption of the 21st amendment, the Court, speaking through Justice Brandeis, held that since that amendment a State was not required to—

> Let imported liquors compete with the domestic on equal terms. To say that, would involve not a construction of the Amendment, but a rewriting of it.

In addition, the history of the amendment's adoption makes it clear that Congress intended that the 21st amendment restore "absolute control' over liquor traffic to the States.

In response to a request by the Committee on Interstate and Foreign Commerce, the Department of Justice on July 18, 1973, submitted its views on H.R. 2096. In its comments on this proposal, the Justice Department stated that it felt it—

> Appropriate to inform the Committee that if Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for this legislation to be sustained.

For the reasons expressed, I strongly oppose passage of H.R. 2096 and ask for the support of my colleagues in defeating this measure.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Moss), a member of the committee.

Mr. MOSS. Mr. Chairman, I suggest that we look more closely at the letter from the Department of Justice, which states:

> Nevertheless we feel it appropriate to inform the Committee that if the Congress were to enact H.R. 2096, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for this legislation to be sustained. The Court noted recently that it had never squarely determined how the amendment affects the power of Congress under the commerce clause.

That was in Heublein against South Carolina Tax Commission.

It is interesting to note that the Department of Justice writes with such certainty in one sentence and then goes to great pains to point out that, rather than reversing well-established precedents, the Court has not set any well-established precedent. As a matter of fact the Court invites the Congress in this case to come forward and give an expression of the Congress.

Let me point out that in the absence of the 21st amendment to the Constitution, no State could impose the discriminatory kinds of levies which are now imposed on wine—no State. They cannot on any other product. They do it here solely because of a rather slipshod interpretation placed back in the 1930's on section 2 of the 21st amendment.

It is interesting that the gentlemen who were debating the 21st amendment in the U.S. Senate made clear that the intent was to give the dry States protection against the importation of alcoholic beverages into those States in contravention of the laws of the States; to protect the dry States only, but it did not confer,

it did not intend to confer the right to discriminate.

We have heard about the 18 control States. 18 States sounds like an awful lot of power, but who expressed the opposition of the 18 control States? In one instance, the Governor of the State expressed the opposition. I checked with counsel to be very certain, but there is no resolution of the legislature of a control State expressing opposition to this legislation. I know of no action other than the action taken by an association of commissioners or officers—employees, if you please—of the States who think—and I underscore "think"—that they might see a danger from their legislatures if this legislation passes. They were not able to coherently state the nature of their opposition. They did involve themselves in an awful lot of obfuscation.

The idea that anyone in the exercise of business judgment—and in this legislation we tie the exercise of business judgment as an essential in determining the promulgation of lists—nobody in the exercise of a business judgment is going to make a list requiring either the stocking or the buying or the canvassing of every single product offered for sale. That would be an outrageous exercise of the poorest sort of business judgment.

So, these laws, this freedom upon the choice of management by the control States is not threatened. It is not a problem.

I think this bill is in keeping with the finest traditions of free trade between the States. It is the first truly common market; the 48 contiguous States of this Union, now expanded to 50. The rest of the world copies what we created almost 200 years ago while we are embarked on an effort here to take us back to a pattern of balkanization. Even with one product, it is wrong.

Therefore, I urge that all Members not be misled. This can be a very complicated subject for discussion. It need not necessarily be a complicated subject. It is simple. Do the Members want discriminatory tariffs levied by one State against the product of another?

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

Mr. HEINZ. Mr. Chairman, as a member of a delegation from a so-called "control State," I feel that it is important to rise in support of H.R. 2096. The sole purpose of the bill before us is to prohibit one State from enacting discriminatory laws against the wine produced in another State. The language of the bill is carefully worded to avoid any notion that it might affect the power or operations of any controlled State.

Mr. Chairman, I believe H.R. 2096 should be enacted into law. I think it is important to reaffirm what the bill, contrary to some of the arguments of the opposition, actually does and what it does not do.

In fact, I should like to list five things the bill does emphatically not do.

First, the bill does not affect the right of any State to prohibit the sale of alcoholic beverages.

Second, the bill does not interfere in any way with the right of a State to fix license fees, markups, hours of sale, or the exercise of any other of its police powers.

Third, the bill does not affect the adoption by any State of local option laws.

Fourth, the bill does not interfere with the exercise of full discretion which the Commissioners have regarding the number of brands or the kinds of brands of wine a State wishes to purchase or sell.

Fifth and finally, the bill does not interfere in any way with the right of a "control" State to list or delist any or all brands of wine.

Let me repeat. The only purpose of H.R. 2096 is to prevent one State from passing any discriminatory tax, discriminatory regulation, discriminatory markup, or discriminatory requirement against wine produced simply because that wine is produced outside of the particular State.

Mr. Chairman, let us be candid. Most of us have particular agricultural or industrial enterprises within our States which are somewhat unique and which greatly affect the economies of our States. Each of us feels obligated, I am sure, to promote these local or regional interests in every way possible.

In the case of the wine industry, I suggest that the best and indeed the right way to promote these interests is to see that they are an attractive product competing in a free economy.

I strongly believe that it is in the interests of every one of us to maintain and to increase the flow of commerce in this country. This in fact was and is clearly the intent of article I, section 10 of the Constitution.

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

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. HEINZ. Mr. Chairman, that is what H.R. 2096 is all about. It is concerned with implementing the Constitution of the United States. It is needed because of a few minor court decisions which favored special interests and which created an unwise legal precedent that has come into existence. Nothing more, nothing less is at stake here.

I, for one, am very proud to support any legislation which recognizes and supports a free, open, and healthy economic system in the United States. I certainly urge all my like-minded colleagues to vote in support of H.R. 2096.

Mr. STAGGERS. Mr. Chairman, I yield myself just a moment in order to congratulate the gentleman from Pennsylvania for his very fine and forthright statement. I believe it is excellent at this time.

Mr. Chairman, I yield 5 minutes to the gentleman from California, (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, H.R. 2096, the so-called Wine bill is simple in concept and equitable in its effect. I continue to be surprised and regretful that it also seems to be somewhat controversial.

In essence, the legislation merely provides that:

First, for purposes of any tax, regulation, prohibition, or other requirement, no State can treat any wine produced outside of its borders or from materials produced outside of its borders less favorably than wine of the same class produced within the State, and

Second, if a State permits the sale of any class of wine within its borders, it may not exclude wine of the same class produced outside of the State or from materials produced outside of the State.

That, Mr. Chairman, is the sum total of what the H.R. 2096 does. Of course, it provides a right of action for interested persons to enjoin violations of its provisions, but that is merely to assure its effectiveness.

To put the legislation in perspective, it might be helpful to briefly review the history behind it. In 1919, the 18th or "prohibition" amendment to the U.S. Constitution was adopted. This amendment adopted after years of regulation banned the manufacture, sale, or transportation of intoxicating liquors within or the importation of intoxicating liquors into, the United States. This "noble experiment" continued in effect for almost 15 years. Years during which crime, violence, and corruption were rampant in this country as a result of prohibition. In December of 1933, the 21st amendment to the Constitution was ratified which ended national prohibition by repealing the 18th amendment. In an effort to protect States which desired to remain "dry," the 21st amendment provided in section 2 that:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

There is no question but that this language was intended to permit any State to prohibit the importation of intoxicating liquors, but only if it prohibited the sale of such liquor within its borders. Unfortunately, the Supreme Court chose to apply the words rather than the intent of section 2. In four cases, decided in the latter half of the 1930's—which are cited in the committee report on H.R. 2096—the Court sustained discriminatory State statutes which but for section 2 of the 21st amendment would have been clearly unconstitutional. Subsequently, other States have passed legislation which discriminates against wine manufactured outside of their borders or from materials produced outside of their borders.

Enactment of H.R. 2096 would terminate these discriminatory State statutes which have Balkanized the United States insofar as commerce in wine is concerned. I should hasten to note, Mr. Chairman, that even though the Supreme Court may have misread the intent of section 2 of the 21st amendment that misconstruction is not the basis for the legislation. As set forth in section 1(b), the legislation is an exercise of the power to regulate commerce among the several States granted to the Congress by article I, section 8, clause 3 of the U.S. Constitution,

which of course is coupled with and supplemented by article I, section 8, clause 18 which gives to the Congress power "to make all laws which shall be necessary and proper for carrying into execution the foregoing power."

Opponents of the legislation urge that the decisions of the Supreme Court on section 2 of the 21st amendment which were handed down in the late 1930's are definitive on this matter, and the Court would have to reverse itself in order to sustain this legislation. The Supreme Court itself has responded to this objection. In the Heublein case which was decided on December 18, 1972, the Court in the majority opinion noted:

> And though the relation between the Twenty-first Amendment and the force of the Commerce Clause in the absence of congressional action has occasionally been explored by this Court, we have never squarely determined how that Amendment affects Congress' power under the Commerce Clause.

Mr. Chairman, I think it is clear that the Congress not only has the power, but the responsibility to act to banish the proliferation of trade barriers which is taking place with respect to commerce in wine.

These trade barriers are not limited in the harm they do to domestic manufacturers of wine. Trade barriers seriously limit the range of choice that consumers of wine have and add substantially to the amount they must pay for wine. In addition, in a period when we are running deficits in our balance of payments and are seeking to increase trade with foreign nations, discriminatory State imposts on wine which apply to foreign wines as well as out-of-State wines seriously impair our ability to trade with wine exporting nations.

Mr. Chairman, hearings were held on this legislation in March of this year and on similar legislation in October of last year. The opposition to the legislation came from representatives of the "control States," that is, States which themselves engage in the sale or distribution of alcoholic beverages. The grounds given for their opposition was that the legislation as introduced would require any control State which stocked any variety of wine to stock every variety of wine tendered to it for sale. I felt that these concerns were unfounded. Nevertheless section 3 of the bill was amended so as to make it clear that each State retains the right to exercise discretion in the selection and listing of wine to be sold by the State. This intention is supplemented by language in the committee report.

Mr. Chairman, I urge the passage of H.R. 2096 as reported by the Committee on Interstate and Foreign Commerce.

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

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in opposition to H.R. 2096, to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes. The State of Arkansas is not one of the 18 control States which have elected pursuant to the 21st amendment to the Constitution to have their alcohol beverage business conducted by their respective governments. I am, however, joining most of my colleagues from those States in opposing legislation which has been largely conceived and supported by my other distinguished colleagues who represent the several States where the wine industry is big business and whose wineries already enjoy a competitive advantage through economics of scale.

Although I will not dwell on the constitutional issue involved in H.R. 2096, I would urge my colleagues to exercise caution in considering their vote on a proposal which seeks to erode some of the control exercised by States in regulating alcoholic beverage traffic. In commenting on similar legislation before the 92d Congress, the Justice Department pointed out that we are setting up a new test case in the courts as to the scope of the 21st amendment. I share the doubt that Congress has the right to define this scope by legislation. It is my view that we should heed the warning that, if we enact this bill, it would be necessary for the Supreme Court to reverse a well established line of precedents in order for the legislation to be sustained.

The State of Arkansas is frequently singled out for criticism as an example of abuse of State powers in discriminating against out-of-State wines. However, the facts of the situation do not point to discrimination nor do they show that we are impeding interstate commerce. Although Arkansas uses tax discretion to protect a native and growing wine industry, located in my district, this practice has by no means served as a barrier to competition by wines produced outside the State. Comparing 1972 to 1971, wines shipped into the State increased in sales by 31.7 percent. During the same period, the sales of wine produced in Arkansas dropped by 6 percent. This picture does not indicate stifled competition nor does the fact that the beverage control States, in 1972, recorded that 90 percent of their wine sales consisted of domestic products, principally from California and, to a lesser extent, New York.

Our Arkansas wine industry is small and its sales amount to less than one-half of 1 percent of total national sales. The cost of production of our infant wineries is therefore much greater than those giants who already have a lion's share of the market. Judicial precedent has long upheld the right of a State to implement taxation measures which protect and nurture growing native industry. The concept of "valid State interest" has been established as a steadying factor in the Federal interstate commerce power. In the long-term view, the growth of young industry will stimulate competition. Passage of H.R. 2096 would deliver a critical blow to our infant industry, and to those in other States as well. Although the intent of the bill is unrestricted competition, it would place our native industry in an impossible position n gaining a foothold in the Arkansas marketplace and thereby remove hope of stronger competition in the future.

My distinguished colleague from Arkansas, the Honorable WILBUR MILLS, is in the State convalescing from his recent surgery. During committee consideration of this bill, he testified before the Subcommittee on Commerce and Finance to speak against H.R. 2096 and similar bills. I would like to share with you his view of the long-term damage which would result from the legislation:

> I urge this subcommittee not to report these bills favorably, for to do so would be to defeat this committee's solid tradition for the preservation of free and open competition. Without the existing tax advantages for the infant wine industries, we will not only lose a substantial investment of labor and capital, but an unrealized growth potential for the wine industry as a whole, and a higher quality, more competitively priced product for the American consumer.

I urge my colleagues to vote against passage of H.R. 2096.

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

Mr. HUTCHINSON. Mr. Chairman, I rise in opposition to this bill.

In my mind it is clearly unconstitutional. The argument is made that the intent of the 21st amendment was simply to protect those States who wanted to remain dry in the enforcement of their prohibition laws. In order to get that interpretation of the language of the Constitution anybody would have to insert a word in there.

In other words, in violation of the prohibition laws thereof. That is not what the amendment says, it says in violation of the laws thereof.

In the State of Michigan back about 1937 the State imposed a tax of 50 cents on every gallon of wine, but it remitted 46 cents of every 50 cents of the tax if the winery was located in Michigan, and used in the manufacture of the wine Michigan-grown grapes. And under the present law, this is not as it was originally, but at the present time the winery must pay $100 per ton to the grower for the grapes.

This kind of an arrangement has placed a floor under the producer's market, and has encouraged the production of grapes in my part of Michigan, and I suppose it can be said to have encouraged the location of some wineries down there.

This bill, if enacted into law, and if it were to become valid law, would completely destroy that arrangement within our State of Michigan, and would hurt my particular congressional district considerably. Because, at the present time, as I say, there is a floor of $100 a ton for grapes used in the manufacture of wine in Michigan. And in order to get that tax advantage the wineries, if located there, have to pay $100 a ton. This bill would destroy this.

So I urge the House to reject this bill not only on the ground that it is unconstitutional, but on the ground that in this particular field of intoxicating liquors there is a particular State interest which should be preserved.

Mr. SISK. Mr. Chairman, would the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from California, if I have any time left.

Mr. SISK. Mr. Chairman, I thank the gentleman for yielding. The gentleman has me completely lost as to the gentleman's basic objection to this legislation, and as to how it would hurt his congressional district, and where this $100 per ton guarantee is involved.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. SISK. Mr. Chairman, if the gentleman from Michigan will yield still further, let me simply say that, as my colleague, the gentleman from Michigan well knows, I think we both have some interest in agriculture, and so on, I am am concerned, because if there is anything in the world that this bill does it is simply to eliminate discrimination. And I am totally at a loss as to how the grape people in Michigan could in any wise be hurt by this legislation.

The explanation given by the gentleman from Michigan somehow or other has not come through to me. I would appreciate the gentleman's comments.

Mr. HUTCHINSON. I will attempt to state it this way to the gentleman from California.

The growers of grapes in Michigan would no longer be assured of at least $100 a ton.

Sometimes the grape crop in Michigan is such, relative to the market, that they could very well receive much less than $100 a ton.

Mr. SISK. On what basis are they guaranteed this amount?

Mr. HUTCHINSON. The gentleman from California would like to know how they are guaranteed $100 a ton? That is by State law. That is to say, the winery has to pay $100 a ton to the grower if the winery is going to get the credit of 46 cents per gallon on this tax.

Mr. SISK. Of course, there again, actually, what the gentleman objects to of course is really discrimination thereof, is that not true?

Let us consider, say, cherries, or let us take peaches—and I know that the State of Michigan grows many of the same commodities that my State of California does. Would it not be discriminatory to permit the existence of that kind of a provision?

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield the gentleman from Michigan 2 additional minutes.

Mr. Chairman, will the gentleman yield?

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

Mr. BROYHILL of North Carolina. The amendment does not talk about peaches, does it?

Mr. HUTCHINSON. No. The amendment only talks about intoxicating liquors. The point is that the Michigan law covers fruits other than grapes, so long as they are made into wine, but most wine is made out of grapes, so far as I know, so it conceivably could help the peach market but it does not.

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

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

Mr. SISK. There is a great deal of wine being made in America today from many fruits other than grapes, of course; but basically I again miss the point raised by our colleague, the gentleman from North Carolina. We are talking here of a matter of discrimination. Certainly, if we are talking about going back to prohibition, I know there are some people against liquor, and they have a perfect right to so be, but that is not the issue here. The issue here is simply a matter of discrimination between States and discrimination in connection with the private flow of business. This is the issue. I have great respect for my good friend, the gentleman from Michigan. I appreciate his comments, but, again in all fairness, I cannot understand how the Michigan people could be alarmed. I rather feel that maybe by this discriminatory practice the general public in Michigan are being hurt by not having an adequate flow of wine.

Mr. HUTCHINSON. I doubt that very much. It does encourage the Michigan wine industry, and it encourages the Michigan grape production—the law as it stands—so I oppose this bill.

Mr. STAGGERS. Mr. Chairman, I yield to the gentlewoman from Oregon for a question.

Mrs. GREEN of Oregon. I thank the distinguished chairman very much.

Apparently, the administrator of the Oregon State Liquor Control Commission has raised some questions about this legislation, Mr. Chairman, and in a letter from the Governor's office, signed by an administrative assistant, Dale Mallicoat, it states:

> This bill, among other things, would be very harmful to the operation of the OLCC retail stores.
>
> It is our understanding that the measure would require a State-owned store, if it lists one wine, to list all 60,000 to 75,000 domestic wines. The warehousing, inventory, and control needs of such a law would be absolutely impossible to meet and thus would force wines out of the state-controlled stores.

Mr. Chairman, my question is: Is this an accurate statement, and would this legislation indeed require them, if they listed one wine, to list 50 or 60 or 75,000 different wines?

Mr. STAGGERS. I might answer the question in this way by reading from the report:

> The only opposition to the legislation in the hearings was from representatives of the control States. They opposed the legislation *as introduced* on the grounds that it might be construed to require control States which stocked any brand or variety of wine to stock every wine which was tendered to it by a supplier which could require such a State to stock as many as 40,000 brands of wine. In order to allay this concern even though it was believed to be without foundation, the Subcommittee adopted a revised section 3 which appears in the legislation herein reported.

I will read that section:

> SEC. 3. (a) Notwithstanding the provisions of section 2 of this Act, each State retains the right—
>
> (1) to enage in the purchase, sale, or distribution of wine; and
>
> (2) to exercise discretion in the selection and listing of wine to be purchased or sold by each such State.

I think that answers the question very conclusively.

Mrs. GREEN of Oregon. Most of the gentleman's answer was in regard to stocking of wines. It does not require, for the legislative history, any of the controlled liquor stores to list any wines or all of them?

Mr. STAGGERS. No, it does not.

Mrs. GREEN of Oregon. I thank the Chairman.

Mr. STAGGERS. I yield 2 minutes to the gentleman from California (Mr. MATHIAS).

Mr. MATHIAS of California. Mr. Chairman, as one of the original sponsors of the discriminatory imposts on wine bill, I want to voice my support for H.R. 2096.

The sole purpose of this bill is to prohibit one State from enacting discriminatory taxes, discriminatory regulations, discriminatory markups, and discriminatory requirements against wine produced in another State. It simply asserts that in those States where wine is sold, whatever taxes or regulations a State may see fit to establish shall be equally applicable to wine produced within that State as well as wine produced in other States.

This bill will remedy a situation whereby some States, for a number of years, have used taxes and other restrictive prohibitions to obstruct the free flow of California wine into their State. By imposing taxes ranging from 15 cents to $1.50 per gallon, which are not placed on locally produced wines, these seven States have attempted to discourage and prevent out-of-State wines from entering the market.

H.R. 2096 in no way precludes or preempts the power of any State from prescribing laws, rules, and regulations governing the sale of alcoholic beverages. It does not take any powers away from the States except the right to discriminate against wines produced in another State.

The equitable regulation of interstate commerce among the States is an important part of our system of government and commerce. The establishment of artificial trade barriers, such as the discriminatory taxes and regulations imposed upon wine by some States, should be struck down.

I urge that the discriminatory burdens placed on the interstate commerce of wine be brought to an end with the enactment of H.R. 2096.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I am grateful for the opportunity to speak on behalf of H.R. 2096 for which I am a cosponsor.

The sole purpose of this bill is to prohibit one State from enacting discriminatory legislation against wine produced in another State. This measure is based on the power granted Congress by article I, section 8, clause 3, of the U.S. Constitution to regulate commerce among the several States.

This legislation in no way affects the right of any State to regulate and control the manufacture, sale, or distribution of wine within its borders. It does not affect the right of any State to legislate in any way it may choose pursuant to its legitimate authority. Furthermore, it does not affect the right of any State to completely prohibit the sale of alcoholic beverages or to enact local option laws, including the regulation of hours of sale. The legislation would apply only when a State permits the importation and sale of wine within its borders.

Cattle, automobiles, clothing, machinery, and virtually all agricultural products except wine move freely in interstate commerce. Enactment of H.R. 2096 would permit wine to be shipped in interstate commerce as are all other products and as the commerce clause of the U.S. Constitution guarantees.

Quite frankly, Mr. Chairman, I am at a loss to understand why many discriminatory barriers exist against wine in interstate commerce.

Several States impose a higher excise tax on wine produced outside the State or produced with products grown outside the State than on wine of the same class which is produced within the State. In one of those States, out-of-State wine is taxed at the rate of 75 cents per gallon while wine produced in the State from products grown in the State is taxed at the rate of 5 cents per gallon.

Some States impose a higher fee for an out-of-State firm soliciting orders for wine within the State or shipping wine into the State, than does a local solicitor to pay a nonresident license or registration fee.

A higher license fee is imposed on establishments which produce wine from products grown outside the State than on establishments which produce wine from products grown within the State.

A higher license fee is charged to sell wine at wholesale which is produced outside the State than is charged if only wine produced within the State is sold at retail.

In some States wine made from products from within the State may be sold directly to consumers whereas wine produced outside of the State must be sold to the State liquor control commission.

A tax is placed on products grown outside the State which are used for the production of wine while no tax is imposed on products grown within the State.

These statutory schemes which have actually been enacted in various States only illustrate the types of discriminatory State legislation which is enacted with respect to wine.

Mr. Chairman, I believe the Congress has an obligation to speak clearly on such matters. Such burdens on commerce between the States must not be allowed to continue, and it is for this reason that I urge all of my colleagues to vote for the passage of H.R. 2096.

Mr. McCOLLISTER. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GUBSER).

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, the bill before us today prohibiting discriminatory taxes by States against out-of-State wines and materials used in wine is a very vital one. The wine industry in America has developed today to the point that it is an important segment of our Nation's economy. Trade barriers imposed by some States against other States' wines and materials used in wine production has prevented the full development of this industry with resulting economic losses to both consumers and producers. With such discriminatory taxes and similar legislation, the ability of wine producers and grape growers in my district, and throughout California, to competitively sell their products in some States has been severely hampered.

The question involved here is really one of a constitutional nature. The Constitution empowers Congress to regulate the commerce among the States and preserve the free flow of such commerce. The various trade barriers this bill would outlaw have restricted such a flow of commerce in the wine industry on the national level and so have prohibited the development of a truly national economic system as the framers of our Constitution intended.

At the same time, H.R. 2096 retains the rights of the States to engage in the retailing of wine themselves and the obvious concurrent rights of choosing what brands to sell and the like. This important safeguard for these States will prevent the complication of their present marketing arrangements.

I commend my colleagues on the Interstate and Foreign Commerce Committee and especially on the Subcommittee on Commerce and Finance for the tremendous amount of work they have put into this area. The result of their efforts is a very good bill, enjoying bipartisan support, and a bill I deeply urge my colleagues to support.

Mr. GUBSER. Mr. Chairman, I rise in favor of this legislation. I realize that we are debating extremely complicated constitutional questions. At the outset let me tell those Members who do not already know it that I am not a lawyer so I am ill at ease in discussing these legal matters.

Nevertheless, lacking expertise in the field of law does not prohibit one from applying commonsense to the Constitution.

It seems to me that the latest judicial interpretation of the pertinent constitutional sections now before the House is in the case of Heublein against South Carolina. I quote a portion of that opinion:

> And though the relation between the Twenty-First Amendment and the force of the Commerce Clause in the absence of Congressional action has occasionally been explored by this Court, we have never squarely determined how that Amendment affects Congress' power under the Commerce Clause.

I do not think anyone here in this Chamber wants to say that the Supreme Court or the judicial system should have the power to prevent Congress from legislating. We have that power, and it is proper for us to exercise that power and it is then the duty of the Court to determine whether we have properly exercised that power.

In the meantime, I think it is incumbent upon us to follow what is clearly the spirit of the Constitution. I know these sections are not necessarily pertinent, but let me quote two sections of the Constitution:

> No tax or duty shall be laid on articles exported from any state.

Another section:

> No State shall, without the Consent of the Congress, lay any Impost or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States.

And so forth and so on.

I conclude, Mr. Chairman, by simply saying that it is a long-established principle in this country that we shall not have trade barriers between States. These discriminatory taxes on wines amount to, and in fact are, discriminatory trade barriers as between States.

The bill is perfectly proper and it is in keeping with the spirit of the Constitution. It clearly exercises the right which the Court recognized in the Heublein case as belonging to Congress; the right to legislate in this field.

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

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. Chairman, will the gentleman yield?

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

Mr. BROYHILL of North Carolina. Mr. Chairman, in Heublein against South Carolina, which I have in my hand, I do not see what the gentleman refers to. I do know that one of the Justices in a footnote to the case—in a footnote to the case—made the statement that he referred to about Congress, the courts never having had a direct case in this particular case, but the Court as a whole did not make that statement. Is that not correct?

Mr. GUBSER. Here we have a legal confrontation between a furniture manufacturer and an ex-farmer. However, I am quoting from the report of the committee, which I presume quoted one of the Justices. To my knowledge, no one took issue with the statement of that Justice. The sum and substance of the statement which he made was that the Court has never made the determination as to whether Congress has the right to legislate in this field.

Mr. BROYHILL of North Carolina. It is also true, is it not, if the gentleman will yield further, that in that particular case the judge is referring to the fact that the court upheld the State of North Calorina and imposed Federal taxes on the alcoholic beverages that are brought within the State.

Mr. GUBSER. This is certainly true that the court did uphold that right, but it did state at the same time that it did

not know what it would do if Congress should happen to legislate in the field.

I do not think the Congress of the United States should be enjoined and restrained from legislating because of one court decision.

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

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

Mr. ECKHARDT. Mr. Chairman, I must say that whatever the gentleman's background, he has made one of the best explanations of the Constitution and its application I have heard.

I should like to point out that the provision is indeed in a footnote, but it is a footnote which is in the majority opinion. It appears in Heublein, Inc. against South Carolina Tax Commission, on page 7, footnote 9, with reference to Mr. Justice Blackmun's separate opinion, and precisely what the gentleman has quoted is what is in the footnote. I believe the gentleman properly interprets the decision in this respect.

Mr. GUBSER. I know the gentleman's reputation as a very able lawyer, and I can tell him this farmer appreciates his assistance.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in support of H.R. 2096. There are some 38 of us from a number of States who have authored this legislation.

I believe that were the legislation enacted we would certainly have a freer flow of commerce around this country. Certainly the California liquid sunshine or the red and white liquid agricultural products from the State of California, the State of New York, the State of Arkansas, and other States that want to produce these commodities, should be ratably amortized among all of the States within the framework and limitations as set forth by the 21st amendment.

I believe to look at the reasons for regulating this commerce one merely needs to look at article I, section 8, which says that the Congress shall have the power to lay and collect taxes and to set uniform duties and imposts. Likewise it says that the Congress shall regulate commerce with foreign nations, and among the several States, and with the Indian tribes, and so forth.

Then if we look at amendment 21, in the first section of the amendment we see we repealed the 18th amendment to the Constitution of the United States in section 1. Section 2 reads simply as follows:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

The question then is, What are "the laws thereof"?

If we had intended that each State should have the exclusive opportunity to set up an alcohol or a wine cartel within its own borders we would have said not "transportation or importation," but "manufacture, distillation, commercial processing, and so forth." We did not say that. Obviously we wanted to get rid of a constitutional amendment that was causing us crime problems in the United States. We were not being too precise when we did it. We legislated the way we legislate many times in this House.

I believe the reasonable interpretation of section 2 is that States merely have the right to stay dry if they want to, and they have the exclusive local option in this particular regard. I believe the legislation embodies a principle essential to the economic survival of the United States: That interstate commerce should flow unfettered by artificial restraints within our borders. The dangers inherent in allowing the separate States to impose regulations of the sort we are addressing here today were clearly recognized by the framers of our Constitution as a result of our experiences under the Articles of Confederation. James Madison wrote:

> The defect of power in the existing Confederacy to regulate the commerce between its several members is . . . clearly pointed out by experience.

And Alexander Hamilton, writing also in the Federalist papers, pointed out the obvious dangers of 50 different sets of trade rules:

> The spirit of enterprise, which is natural to America, . . . would naturally lead to outrages, and these to reprisals. . . .

The things these great men feared are coming to pass; due to a quirk interpretation of the 21st amendment, we are witnessing the beginnings of a full-scale trade wine war completely within our own borders.

While we are on the subject of the Supreme Court's interpretation of clause 2 of the 21st amendment, I would like to bring to your attention the statement made on page 5 of the committee report, that the "Brandeis cases," generally conducted to be the Court's statement on this matter, were all ruled upon with absolutely no effort made to look behind the language of section 2 to the intent of Congress in adopting the section.

Since we are all aware of the importance of legislative history, this is a serious oversight indeed; for when one looks at that history, it becomes clear that the intent of the section was to allow States to discriminate against alcoholic beverages; never did the Congress intend to allow States to discriminate among alcoholic beverages to the injury of other States.

The Constitution of the United States was adopted in large part, because of the obvious need for 1 instead of 13 competing economic systems. That need is even more acute today. Our burgeoning wine industry is a potential product of some magnitude in world trade, but in order for it to reach its fullest potential, we must dispose of certain overseas barriers to its importation by negotiation. How, then, are we to bargain with a straight face with the rest of the world to remove the restrictions on our wine, when we refuse to lift our own arbitrary domestic restrictions voluntarily?

Mr. Chairman, there is one other objection to this measure raised on the minority views which I would like to address, and that is the contention that passage of this measure would endanger the smaller wine businesses in several States. If this argument were true, the complete internal industrial development of the United States would be nothing short of a devine miracle. No other industry besides alcohol has, in the history of our Constitution, ever had this type of preferred tax treatment within our borders. That "spirit of enterprise" pointed out by Alexander Hamilton has been solely responsible for the tremendous economic development the United States has accomplished, and unless those who oppose this measure can assure us that that spirit is now dead, I see no reason to abandon it by defeating this measure. In the spirit of 200 years of American history, I urge passage of this bill.

Unfortunately, as the Supreme Court interpreted the 21st amendment it painted with quite a broad brush in allowing some old California statutes to stand and a number of other statutes of some of the States to be incorporated within the terms of section 2 of the 21st amendment.

Mr. Chairman, I believe that the statement in the Heublein case is good law. It is the latest law that currently we have from the Supreme Court. It is the latest expression from the Supreme Court. As the gentleman from Texas has indicated, it may be incorporated in a footnote. It was incorporated in a footnote, because the point was not decided. Certainly we are looking toward a further Supreme Court decision by the enactment of this legislation.

We referred in the past to the statements made by the various executive agencies. I believe that regardless of what the current interpretation of the law is, each of the executive agencies supports a modification of the law to allow this free liquid agricultural commerce to permeate the States that want to go off a dry status, with specific exception for those States which have, in fact, a controlled status.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

Mr. ECKHARDT. Mr. Chairman, I yield 1 additional mintue to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, the Department of Justice stated, after outlining the constitutional problems, as follows:

> (There is evidence that the original purpose of the Amendment was to permit dry states to protect themselves from importation of liquor rather than to permit liquor producing states from erecting trade barriers against out-of-state products. Generally speaking, there has always been a strong policy in favor of interpreting the Constitution to prohibit such barriers.)

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

Mr. JOHNSON of California. Mr. Chairman, as commerce developed in the early American colonies, trade barriers were set up by individual colonies as protection against products entering from

other areas. When our Founding Fathers met in Philadelphia to draft the Constitution, the importance of eliminating hindrances to trade among the newly created States was thoroughly discussed. As a result the Constitution which emerged encouraged the development of interstate trade and commerce.

The history of this Nation's commerce has been one in which the Congress and the Supreme Court have moved as one to provide a free flow of goods between the States. A fundamental principle of the United States is to provide a basis for commercial competition on a national basis which treats all competitors fairly.

In 1933, the States of the Union adopted the 21st amendment to the Constitution, repealing the so-called "Prohibition Amendment." The original intent of section 2 of that amendment was to prevent the importation of alcoholic beverages into an area where the sale of alcohol was prohibited. The section in question reads:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 2 of the amendment has been grossly misinterpreted by States to allow them to institute arbitrary licensing, storage, and marketing regulations as well as discriminatory taxes on wine imported from other States, while exemptying locally produced products from being subject to those same regulations. For a State to impose a tax or regulation on an out-of-State product while not imposing a similar tax on like products produced within the State, is clearly without legal justification.

The legislative history of this section clearly indicated that it is intended solely as a safeguard to protect those States who wished to remain "dry" following the repeal of prohibition. The intention of the section was not to impose a discriminatory tax against the manufacture of alocoholic beverages; but that is the manner in which it is currently being utilized.

The Congress, which has often exercised its constitutional authority to regulate commerce among the States, must now again take appropriate action, because a number of States are unfairly restricting competition in the wine industry.

Article I, section 8, clause 3 of the Constitution empowers the Congress to regulate commerce between the States. We have the authority by legislative and judicial precedent to restrict the discriminatory taxes imposed by some States on the sale of wine.

The proposal before us today reasserts the congressional legislative intent by providing that where States permit the sale of wines, any wines produced in another State of the Union shall be treated equally with the wines from the home State and in a manner consistent with the free flow of interstate commerce. Other commodities move freely between the States; there is no reason why wine should be any different.

There has been on occasion some question about the purpose and effects of this bill. Let me state at this time that the sole purpose of H.R. 2096 is to prohibit one State from enacting discriminatory taxation, discriminatory regulations, discriminatory markups and or discriminatory requirements against wine produced outside of that particular State. The bill is not intended to, nor does it in any way, affect the powers or operations of any control States.

The bill addresses itself to every State and the sole purpose of the bill is to prohibit any State, whether control or open license, from discriminating against any wines, imported or domestic, which come into the State, in favor of the wines produced in the State. The objective of the legislation has nothing to do with the marketing practices of either a control State or an open license State, except if such practices discriminate against any wines produced in other States or imported wines in favor of wines produced in the State.

Great care was exercised to protect the integrity of all States; that is, if a State is "dry" or if a State does not permit the importation or sale of wine, this right is protected.

The proposed legislation does not interfere with the right of any control State or other State to impose taxes, markups, or merchandising practices it chooses or to enact any regulations so long as they do not discriminate against wines produced or imported from without such State.

It does not interfere in any way with the right of a control State to list or delist any or all brands of wines.

It does not interfere with the exercise of full discretion which the commissioners have regarding the number of brands or the kinds of brands of wine a State wishes to purchase or sell.

It does not affect the adoption by any State of local option laws.

It does not affect the right of any State to prohibit the sale of all or any alcoholic beverages.

It does not interfere in any way with the right of a State to fix license fees, markups, hours of sale, or the exercise of any other police powers it now has.

Again I assure you that this legislation in no way precludes or preempts the power of any State to prescribe laws, rules, and regulations governing the sale of alcoholic beverages. It simply asserts that in those States where wine is sold, whatever taxes or regulations a State may see fit to establish, shall be equally applicable to wine produced within that State as well as to wine imported from other States.

Discriminatory taxes such as those which have been imposed by certain States merely serve to retard the growth of the wine industry as a whole. When trade is curtailed, it is a detriment to the entire Nation.

In the interest of an expanding national economy, the Congress must take action to insure that the wine industry in every State has the opportunity to compete on an equal basis in the American market.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the distinguished majority whip, the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Chairman, the flexibility of our constitutional Government is one of its greatest inherent strengths. In many areas, such as the administration of contracts, estates, and trusts, and the criminal law, each State is free, under the Constitution, to make—within certain limits—whatever laws its citizens deem proper. In this way each State is a continuing dynamic laboratory in which differing legal theories are tested and proved.

However, the Constitution does set aside certain areas for regulation only by the Federal Government. One of the most important areas is the regulation of interstate commerce. In almost no case may States make laws which impede the free flow of commerce among and between the several States.

The necessity for such a restriction on State power is obvious. Were it otherwise there would be customs houses at every border and a pound of fresh crab, harvested in Maryland at $2, might cost $3.50 in Delaware, $5.50 in Pennsylvania, and $10 in New York. Further, distribution, licensing, and advertising standards might be so different in each of these jurisdictions that multi-State marketing could become a virtual impossibility for all, but the most wealthy shippers.

If every State were free to erect trade barriers against the lawful products of every other State, economic chaos would result, and the United States would no longer be a viable economic entity. The commerce clause prohibits such a result, except for wine and other alcoholic beverages.

Let me cite two examples. Several States impose a higher tax on wine produced outside of the State than on wine of the same class produced within the State or wine produced from locally grown fruit. One such State taxes its own wines at $0.05 per gallon, but taxes wines made in other States at $0.75. Another State taxes its own table wines at $0.40 per gallon while taxing out-of-State table wines at $1.50. The disparity in this State on dessert wines is even more dramatic: local dessert wines are taxed at $1 per gallon while those from out-of-State pay an excise tax of $2.50 per gallon.

These examples are but representative of the discriminatory legislation and regulations on the books of 19 States. Six States, besides the two already alluded to, practice tax discrimination against out-of-State wines. Eleven States discriminate in favor of local manufacturers or raw products. One of these permits local wineries to produce wine from in-State products at no license fee. But if a winery uses grapes of other origin the winery must pay a license fee of $250. Another State, while permitting the production of wine from local materials grown by the winemaker at no cost, charges $500 for a license to produce wine from grapes grown by others. In addition, this State requires a winemaker who uses other than local grapes to obtain a bottler's license at $250 per year in order to bottle his wine.

Seven States discriminate in favor of their wines by increasing the burden on

distributors of out-of-State wines. Thus one State requires salesmen of an out-of-State firm to register at an annual fee of $100 while salesmen of local firms must pay only a $5 registration fee. Another State requires, as a condition precedent to the shipping of wine to distributors within its borders that out-of-State shippers obtain a certificate of compliance at an annual fee of $10. An out-of-State shipper's agent soliciting wholesalers within this State must obtain a license at a fee of between $100 and $300. In addition, salesmen of such a licensed agent must secure a salesman's license at an annual fee of $10. But an agent soliciting for a local producer need only obtain the $10 salesman's license.

Numerous other examples of discrimination exist, but by now the problem should be clear. What has happened, and is continuing to happen—just this year a State enacted new taxes which discriminate against out-of-State table and dessert wines by $0.55 and $0.65 per gallon respectively—is that certain States have taken advantage of a very dubious construction of the 21st amendment, one which ignores the expressed intent of the Congress which enacted it, to fragment this sector of the American economy. The Founding Fathers intended that the United States operate under one economic system, not 13. Certainly they never indicated any intent to require, or even permit, wine to be subject to differing economic treatment of 50 States.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Chairman, I rise, of course, in support of this legislation.

I will admit to some considerable amount of interest in it.

Certainly we are not here today debating prohibition. The only issue is discrimination between States. That is the only concern, and I believe the Court has on more than one occasion indicated that the Congress should act in this field. The actions and the interpretations given to one of the phrases used in connection with the repeal of prohibition, which is to provide the right of States to remain dry if they so desire, have been twisted. There is no question but what they have been distorted from those intended, according to the debate in Congress at the time that amendment was passed.

Mr. Chairman, I simply hope that the Members will vote for this legislation to remove this type of discrimination.

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

Mr. SISK. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

I would like to join with the gentleman from California (Mr. SISK) in support of this measure. I would also like to point out to my friend on the committee, the gentleman from California (Mr. SISK), that in Idaho we are a controlled State.

We also have an infant wine industry, and to make matters even more interesting, I personally own an interest in a new vineyard in Idaho which has been planted with the intention of competing with wine from the gentleman's State, the State of California.

It is our attitude that if we cannot grow a juice that will make a wine that is as good as is grown in other States, we would not want to have the local politicians of Idaho pass protective measures to keep the good wine from the lips of the wine consumers in our State.

So we are going to support your measure. We are all for free trade between States.

Mr. SISK. I appreciate very much the comments of my friend from Idaho. And let me say we love Idaho potatoes, also.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I rise in favor of the bill.

I shall not say much, because I think the interpretation of the Constitution by the gentleman from California (Mr. GUBSER) is so practical and so correct that it needs very little addition.

The point that is made is that the Constitution must be read as a practical document dealing with the subject matter in the light of the purpose for which the language was written.

Section 2 of the 21st amendment was obviously written to permit the States to enact local prohibition in spite of the fact that the 21st amendment abolished national prohibition. It was permissive to the States; it was not restrictive on Congress. So Congress in this present bill is simply acting under the authority of the commerce clause to do a very practical thing: that is, to prevent a burden on interstate commerce with respect to commerce in wine of exactly the same nature as exists in a free exchange of other products in commerce.

That is all it does. It does not change prior constitutional decisions; it merely exercises the authority that Congress undoubtedly has to accomplish this purpose.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I thank the gentleman from Idaho for his kind remarks about the California wine industry and, as the poet John Gay said, from wine strong friendships spring, and also invite him to the great Livermore Valley in the Eighth Congressional District where we have the Wente and Conc Annon wineries, the most famous in the world. I am glad to invite him to a tour of these world-famous vineyards.

I rise in support of the bill. I think you will find that we can make available to all of the people of the United States the opportunity to enjoy the products of people in neighboring States without interference.

I ask all of you to support us in the spirit of good friendship that wine does, indeed, bring.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Thank you.

Mr. Chairman, it will come as no surprise that I, too, join the chorus of support for this splendid legislation; not, let me say, because I am a Californian, but because I am a citizen of the United States of America and not the Balkan Peninsula.

Mr. ALEXANDER. Mr. Chairman, even before my election to the Congress, I was deeply concerned about and involved in the problems of our Nation's smaller communities. Since coming to Congress, I have worked for legislation which will allow these small towns to offer the opportunities necessary to keep their youth at home. Up to this point in time there has been mass outmigration from these communities to the already overcrowded metropolitan areas.

The State of Arkansas like several other States recognized the need to encourage local industry and encourage her people to help themselves. Arkansas, under the authority of the 21st amendment passed legislation that offer tax protection for its wine manufacturers.

At the same time this statute assists the small fruitgrowers since it restricts the wine manufacturers to the purchase and use of Arkansas fruits and vegetables if available.

If the out-of-State tax is rescinded, Arkansas wineries will be free to buy their produce from less expensive out-of-State growers. Who, then, will buy the Arkansas fruits grown for this purpose? Transportation costs would prohibit sales to California or New York. Thus, with passage of this legislation, the Congress would be in effect killing several communities in Arkansas whose lives and livelihoods center around the wine industry. I do not think this situation peculiar to Arkansas. Doubtless, towns in other States would also suffer from this legislation.

Although I have twice stated my opposition in testimony before the Subcommittee on Commerce and Finance of the Interstate and Foreign Commerce Committee, I would like to take this opportunity to share with my colleagues the facts and figures which have led me to oppose this measure.

Wine sales in Arkansas increased 900 percent between 1950 and 1967. The direct payroll of the Arkansas wine industry in 1967 was three times as large as the payroll in 1960. An economic impact study has shown that the growing wine industry has had a most significant impact on the employment rate of Franklin County in which the largest wineries are located. In 1960, 6.8 percent of the workers in the county were employed by the wine industry. By 1967 this figure had grown to 11 percent and is still increasing.

Supporters of H.R. 2096 say that States such as Arkansas are losing revenue by not taxing their in-State wines fully. However, the impact study shows and the Arkansas State Revenue Department has backed up the fact that the Arkansas wine industry brings in more revenues to the State indirectly, per gallon sold—through the income taxes of growers who sell their grapes to wineries, labor withholding taxes, gasoline taxes of the industry from vineyard to retailer, sales taxes, property taxes, excise taxes on machinery and equipment, and so

forth, not to mention the multiple economic impact of these recirculated dollars—than the imported wine tax brings in directly. When Arkansas wines made by Arkansans from Arkansas products, are sold outside the State they bring money into Arkansas. When imported wines are sold in the State they remove money from the economy of Arkansas.

This wine industry in my State is a growing one. Once limited to the small Italian, or German colonies in the Ozarks of northwest Arkansas, growers are now turning a profit in north-central and eastern Arkansas.

Yet, with all this increase in production, I do not think that it can be argued that Arkansas wineries are offering a serious threat to the larger wine-producing States. A report from the Department of Finance and Administration, Revenue Service Division, Little Rock, Ark., indicates that wines shipped into the State of Arkansas increased in sales in 1 year from 1971 to 1972 by 31.7 percent.

Arkansas sales amounted to less than one-half of 1 percent in 1971 while California produced 84.9 percent of all wine produced in the United States and 73.9 percent of all wine consumed that year. Foreign wine sales that year were 11.2 percent. A large percentage of the remaining sales belongs to New York. Surely this one-half of 1 percent means much more to the State of Arkansas in terms of economic development and growth than it even could to the larger States of California and New York.

In conclusion, I would like to emphasize my belief that passage of this legislation would be contrary to the congressional goals for national development. Passage of this measure would destroy the industry which has sprung up because of the enterprising use of the natural resources available in the countryside of Arkansas and other States. I ask that my colleagues join with me in defeat of this bill.

Mr. CONABLE. Mr. Chairman, I rise in support of H.R. 2096, a bill which would abolish discriminatory taxes, license fees, and other discriminatory burdens imposed by some States on wines produced outside of the State or from materials produced outside of the State. The bill would not preclude a State from enacting excise taxes as high as it chose so long as it applied to all wines; it simply asserts that in those States where wine is sold, whatever taxes or regulations a State may see fit to establish shall be equally applicable to wine produced within that State as well as wine imported from other States.

The need for this legislation arises from the intent of the constitutional amendment repealing prohibition. Although the Supreme Court has never decided a case involving a discriminatory State excise tax on out-of-State wine, it is clear from other decisions concerning the 21st amendment that the Court regards the issue as a political one where Congress has not used all of its available power. The language at issue is section 2 of the 21st amendment which provides that "the transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof, is hereby prohibited." The legislative history of the 21st amendment indicates that this was intended to give the States the authority to control whether or not alcoholic beverages could be sold within the State. The issue of whether a State could discriminate against certain out-of-State products simply did not come up. James Madison in his notes on the constitutional convention correctly assessed the issue before us today when he stated that the commerce power of the States would depend "on the extent of the power—of Congress—'to regulate commerce.'" It is this type of clarification we must decide today.

Certainly none of us can argue with the importance of John Marshall's judicial pronouncement that the regulation of commerce was a national power when viewed in relation to the economic development of our country. Since World War II the grape products and wine producing industry has been an important part of our economy. New York State represents an important part of that growth. The 35th District of New York, which I represent, contains some grape growing and wine interests. Mr. Speaker, I urge support for H.R. 2096. I do not feel the power of Congress to regulate commerce should be limited by circumstances and am glad Congress is addressing this issue at this time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

Mr. BROYHILL of North Carolina. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. All time having expired, pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purposes of amendment.

The Clerk read as follows:

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

SECTION 1. (a) Congress finds that the imposition by one State of State taxes, regulations, prohibitions, and requirements which discriminate against wine produced outside the State, and the imposition of unreasonable requirements as conditions for shipment into and sale or distribution of wine in a State, materially restrain, impair, and obstruct commerce among the several States.

(b) Congress declares that, in the exercise of the power to regulate commerce among the several States granted to it by article I, section 8, clause 3 of the United States Constitution, its purpose and intent in enacting this Act is to eliminate the obstructions to the free flow of commerce in wine among the several States resulting from acts of the States which impose discriminatory and unreasonable burdens upon such commerce.

SEC. 2. (a) Wherever the law of any State permits the transportation or importation of wine into that State, such State may not impose with respect to any wine produced outside the State, or from materials originating outside the State, any tax, regulation, prohibition, or requirement which is not equally applicable with respect to wine of the same class (established under section 5041(b) of the Internal Revenue Code of 1954) (1) produced in, or from materials originating in, the State imposing such tax, regulation, prohibition, or requirement, or (2) produced outside the State, or produced from products produced outside the State.

(b) A State which permits the sale of wine within the State shall permit the transportation or importation of wine of the same class (established under section 5041 (b) of the Internal Revenue Code of 1954) produced outside the State, or from materials originating outside the State, into such State for sale therein upon terms and conditions equally applicable to all wine of the same class (established under section 5041 (b) of the Internal Revenue Code of 1954) sold in the State.

SEC. 3. (a) Notwithstanding the provisions of section 2 of this Act, each State retains the right—

(1) to engage in the purchase, sale, or distribution of wine; and

(2) to exercise discretion in the selection and listing of wine to be purchased or sold by each such State.

(b) No State which exercises the rights set forth in subsection (a) may impose with respect to wine of any class (established under section 5041(b) of the Internal Revenue Code of 1954) any tax, regulation, license fee, prohibition or markup, which discriminates against wine of such class produced outside such State.

SEC. 4. Whenever any interested person has reason to believe that any State has violated any of the provisions of section 2 or 3(b) of this Act, such person may file in a district court of the United States of competent jurisdiction, a civil action to enjoin the enforcement thereof. Such court shall have jurisdiction to hear and determine such action, and to enter therein such preliminary and permanent orders, decrees, and judgments as it shall determine to be required to prevent any violation of section 2 or 3(b).

SEC. 5. As used in this Act—

(1) the term "State" means any State of the United States, any political subdivision of any such State, any department, agency, or instrumentality of one or more such States or political subdivisions, and the Commonwealth of Puerto Rico; and

(2) the term "person" means any individual and any corporation, partnership, association, or other business entity organized and existing under the law of the United States or of any State.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed at this point in the RECORD and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. FUQUA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2096) to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes, pursuant to House Resolution 466, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

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

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROYHILL of North Carolina. 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.

The vote was taken by electronic device, and there were—yeas 248, nays 152, answered "present" 1, not voting 33, as follows:

[Roll No. 446]

YEAS—248

Abzug	Fish	McCloskey
Addabbo	Fisher	McCollister
Alexander	Fraser	McFall
Anderson, Calif.	Frelinghuysen	McKinney
Annunzio	Frenzel	Macdonald
Arends	Froehlich	Madden
Armstrong	Fulton	Madigan
Ashley	Giaimo	Mailliard
Aspin	Gibbons	Maraziti
Badillo	Gilman	Martin, Nebr.
Beard	Goldwater	Mathias, Calif.
Bell	Gonzalez	Matsunaga
Bergland	Grasso	Mazzoli
Biaggi	Gray	Meeds
Biester	Green, Oreg.	Melcher
Bingham	Griffiths	Metcalfe
Blatnik	Gubser	Mezvinsky
Boggs	Gude	Michel
Boland	Haley	Minish
Bolling	Hamilton	Mink
Brademas	Hanley	Minshall, Ohio
Brasco	Hanna	Mitchell, N.Y.
Breaux	Hansen, Idaho	Moakley
Breckinridge	Hansen, Wash.	Mollohan
Brooks	Harrington	Moorhead, Calif.
Brotzman	Hastings	Moorhead, Pa.
Brown, Calif.	Hawkins	Mosher
Burgener	Hays	Moss
Burke, Mass.	Hébert	Murphy, Ill.
Burlison, Mo.	Heinz	Murphy, N.Y.
Burton	Helstoski	Myers
Camp	Hillis	Natcher
Carey, N.Y.	Hinshaw	Nedzi
Carney, Ohio	Holifield	Obey
Chisholm	Holtzman	O'Brien
Clancy	Horton	O'Hara
Clausen, Don H.	Hosmer	O'Neill
Clay	Howard	Passman
Cohen	Hudnut	Patten
Collier	Hungate	Pepper
Collins, Ill.	Ichord	Perkins
Conable	Jarman	Pettis
Conte	Johnson, Calif.	Peyser
Corman	Johnson, Colo.	Pike
Cotter	Johnson, Pa.	Podell
Cronin	Jones, Ala.	Price, Ill.
Culver	Jones, Okla.	Randall
Daniels, Dominick V.	Jordan	Rangel
Danielson	Karth	Rees
de la Garza	Kastenmeier	Reid
Dellums	Kazen	Reuss
Denholm	Kemp	Riegle
Dent	Ketchum	Rinaldo
Dickinson	King	Robison, N.Y.
Donohue	Kluczynski	Rodino
Drinan	Koch	Roe
Duiski	Kyros	Roncallo, N.Y.
Eckhardt	Landrum	Rooney, N.Y.
Edwards, Ala.	Leggett	Rooney, Pa.
Edwards, Calif.	Lehman	Rosenthal
Erlenborn	Lent	Rostenkowski
Evans, Colo.	Litton	Rousselot
Evins, Tenn.	Long, La.	Roybal
Fascell	Long, Md.	Ruppe
	Lujan	Ryan
	McClory	Sandman
Sarasin	Stubblefield	Widnall
Sarbanes	Stuckey	Wiggins
Saylor	Studds	Wilson, Bob
Schroeder	Sullivan	Wilson, Charles H., Calif.
Selberling	Symington	
Shipley	Symms	Wilson, Charles, Tex.
Sisk	Talcott	
Slack	Thompson, N.J.	Winn
Smith, Iowa	Thone	Wolff
Smith, N.Y.	Tiernan	Wright
Staggers	Towell, Nev.	Wydler
Stanton, J. William	Udall	Wyman
	Ullman	Yates
Stanton, James V.	Van Deerlin	Young, Alaska
Stark	Vanik	Young, Ga.
Steed	Waldie	Zablocki
Steele	Walsh	Zion
Stokes	Whalen	
	White	

NAYS—152

Abdnor	Flynt	Pickle
Adams	Foley	Poage
Andrews, N. Dak.	Ford, Gerald R.	Powell, Ohio
	Ford, William D.	Preyer
Archer		Price, Tex.
Bafalis	Forsythe	Pritchard
Baker	Fountain	Quie
Barrett	Frey	Quillen
Bauman	Fuqua	Railsback
Bennett	Gaydos	Rarick
Bevill	Gettys	Regula
Blackburn	Ginn	Roberts
Bowen	Goodling	Robinson, Va.
Brinkley	Gross	Rogers
Broomfield	Grover	Roncalio, Wyo.
Brown, Mich.	Gunter	Roush
Broyhill, N.C.	Hammer-schmidt	Roy
Broyhill, Va.		Ruth
Buchanan	Harsha	Satterfield
Burke, Fla.	Harvey	Scherle
Burleson, Tex.	Hechler, W. Va.	Schneebeli
Butler	Henderson	Sebelius
Byron	Hicks	Shoup
Carter	Hogan	Shriver
Casey, Tex.	Holt	Shuster
Cederberg	Huber	Sikes
Chappell	Hutchinson	Skubitz
Clark	Jones, N.C.	Snyder
Cleveland	Jones, Tenn.	Spence
Cochran	Keating	Steelman
Collins, Tex.	Kuykendall	Steiger, Ariz.
Conlan	Landgrebe	Stephens
Coughlin	Latta	Taylor, Mo.
Crane	Lott	Taylor, N.C.
Daniel, Dan	McCormack	Teague, Tex.
Daniel, Robert W., Jr.	McKay	Thomson, Wis.
	Mahon	Thornton
Davis, Ga.	Mallary	Treen
Davis, Wis.	Mann	Vander Jagt
Dellenback	Martin, N.C.	Wampler
Dennis	Mayne	Ware
Devine	Miller	Whitehurst
Dingell	Mitchell, Md.	Whitten
Dorn	Mizell	Williams
Downing	Montgomery	Wyatt
Duncan	Morgan	Wylie
du Pont	Nelsen	Yatron
Eilberg	Nichols	Young, Fla.
Esch	Nix	Young, Ill.
Eshleman	Owens	Young, S.C.
Flood	Parris	Young, Tex.
Flowers	Patman	Zwach

ANSWERED "PRESENT"—1

Teague, Calif.

NOT VOTING—33

Anderson, Ill.	Derwinski	Milford
Andrews, N.C.	Diggs	Mills, Ark.
Ashbrook	Findley	Rhodes
Bray	Green, Pa.	Rose
Brown, Ohio	Guyer	Runnels
Burke, Calif.	Hanrahan	St Germain
Chamberlain	Heckler, Mass.	Steiger, Wis.
Clawson, Del	McDade	Stratton
Conyers	McEwen	Veysey
Davis, S.C.	McSpadden	Vigorito
Delaney	Mathis, Ga.	Waggonner

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California for, with Mr. Rhodes against.

Mr. Waggonner for, with Mr. Chamberlain against.

Mr. Conyers for, with Mr. Guyer against.

Mr. St Germain for, with Mr. Green of Pennsylvania against.

Until further notice:

Mr. Delaney with Mr. Anderson of Illinois.

Mr. Vigorito with Mr. Derwinski.

Mr. Davis of South Carolina with Mr. Veysey.

Mr. Diggs with Mr. McEwen.

Mr. Mathis of Georgia with Mr. Del Clawson.

Mr. McSpadden with Mr. Bray.

Mr. Mills of Arkansas with Mr. Findley.

Mr. Rose with Mr. Hanrahan.

Mr. Stratton with Mrs. Heckler of Massachusetts.

Mr. Milford with Mr. Steiger of Wisconsin.

Mr. Andrews of North Carolina with Mr. Brown of Ohio.

Mr. Runnels with Mr. McDade.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and 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.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, on behalf of the Committee on Rules, I ask unanimous consent that the committee may have until midnight tonight to file certain privileged reports.

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

There was no objection.

EMERGENCY EUCALYPTUS ASSISTANCE

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 511 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 511

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4), 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. 1697) to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California. 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. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amend-

ments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, let me assure my colleagues that so far as the rule is concerned we will move as rapidly as we can. I recognize that the bill may have a slight bit of controversy. However, we would hope that the rule might be adopted quickly to permit the committee to debate the issue.

Mr. Speaker, House Resolution 511 provides for an open rule with 1 hour of general debate on S. 1697, a bill to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California.

House Resolution 511 also provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill.

S. 1697 provides a program designed to meet an extraordinary problem not addressed under current interpretations of Federal law—a threat of forest fire sweeping through a populated area carrying with it a high probability of major Federal disaster despite exhausting local efforts to abate the threat. In the East Bay Hills area above the cities of Oakland and Berkeley, Calif., 2,700 acres of eucalyptus trees ranging as high as 150 feet have been, through action of an unprecedented freeze in December 1972, transformed into a volatile fuel that carries the potential of a holocaust in the populated areas of the East Bay Hills and the cities below. In order to supplement and augment local efforts made to date to abate the threat of disastrous fire, S. 1697 reaffirms the authority provided the President under existing disaster statutes and also provides additional Federal funds matched to State and local contributions.

The Committee on Agriculture estimates the cost to be incurred by the Federal Government during the current and the five subsequent fiscal years at approximately $11 million.

Mr. Speaker, the threat of a forest fire is great, unless we can provide the assistance needed for tree removal and fire suppression activities. I urge adoption of House Resolution 511 in order that we may discuss and debate S. 1697.

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

Mr. Speaker, the gentleman from California has explained the provisions of the resolution.

Mr. Speaker, I would like to read an article that has been reported from California.

The article is as follows:

CALIFORNIA PROVIDES $710 MILLION TAX BREAK

Californians will receive a $710 million tax break under a 1973 law. The law cancels any 1973 state income tax for those with adjusted gross incomes of $8,000 a year or less and provides a sliding scale of tax credits ranging from 35 percent to 25 percent of liability for higher incomes. Effective October 1, the sales tax will be rolled back from 6 percent to 5 percent for six months. The sales tax increased to 6 percent July 1 under a school finance-tax switch law passed last December; but subsequently the State amassed an $800 million surplus.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Speaker, I thank the gentleman very much for yielding this time to me.

I would like to make this plea to my colleagues. I am well aware that this is a very controversial bill. I am not personally involved, nor are any of my constituents. The area affected is 300 or 400 miles from where I live.

I hope, however, that all of us will show the fairness to vote for the rule so that those Members of the House who happen to be liberal Democrats, as well as myself, a reasonably conservative Republican, will have an opportunity to explain the bill.

Mr. Speaker, I hope very much that the Members will vote for the rule.

Mr. QUILLEN. Mr. Speaker, it is reported that this bill is needed because of a freeze in 1972 that killed or damaged an estimated 2 million eucalyptus trees in Alameda and Contra Costa Counties, in California. These trees are highly combustible and threaten to cause a major public disaster.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to both the rule and the bill.

As a Member of the California delegation, I am disappointed in the way that this legislation is being handled, and I believe it is unfair to ask the Congress of the United States to become involved in a tree-trimming problem in California that basically should be handled either by the State or by other means.

To show you that this is clearly not in keeping with the basics of what experts on the subject say, I would like to quote from a letter addressed to Senator CRANSTON, from Edward C. Stone, professor of the School of Forestry and Conservation, University of California, at Berkeley, which is part of the area affected by this legislation.

Professor Stone writes:

The extreme fire danger that prevails almost every year in the Berkeley hills during the late summer and fall I have never minimized; and on more than one occasion I have attempted to get the Regional Parks to do something about it. But to simply cut down the eucalyptus is no solution and it is totally dishonest to let the public believe that it is. Eucalyptus-stands are certainly one of the several highly inflammable units in the vegetational mosaic, but what has been resolutely overlooked by the "experts" consulted, is that these same eucalyptus-stands are one of the easiest vegetation units to "fire-proof" The straight trunks can be pruned to keep the crowns beyond the reach of ground fire, and the annual deposition of fuel can be readily removed or burned when safe to do so. It is for these reasons that eucalyptus is systematically strip-planted at intervals throughout the highly inflammable Monterey pine plantations in South Africa.

I am sorry that I find myself in disagreement with some of my other colleagues from California, but I think it would be unfair to come to this body to request these kinds of dollars when really and truly it can be solved without asking for heavy Federal financing and involvement. In my opinion, it can be done in that manner. Therefore, I urge my colleagues to vote against the rule and to vote against its final passage.

Mr. STARK. Will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my colleague from northern California, and an area partially affected.

Mr. STARK. I thank the gentleman for yielding.

I would like to explain to my colleague from California that there are many eucalyptus trees which the fire officials and the park officials feel must be destroyed that still show some partial signs of life. They have established at most the growth left is 10 to 15 percent.

Mr. ROUSSELOT. And so they do not have to all be totally destroyed.

Mr. STARK. They do not. Those have to be destroyed partly because they feel the fires starting in these trees that show some live green growth could have an almost chimney-like effect on the remaining available trees and it would only be a matter of a year or two before those trees with some partial growth will die.

There is some misunderstanding that the trees that are 80- to 90-percent dead cannot possibly live for maybe another year or two, and it is equally important that they be destroyed along with those that are dead.

Mr. HUNT. Will the gentleman yield?

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

Mr. HUNT. I thank the gentleman for yielding.

I think I recall a few days ago reading an article in a newspaper telling about the enormous surplus of money that the State of California has—over $800 million. Why do you want to rook us for $11 million more?

The SPEAKER. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. ROUSSELOT. I thank the gentleman for yielding me the additional time.

I would like to say in answer to the question of the gentleman from New Jersey that I am saying to my colleagues I do not believe it is necessary to ask the Federal Government—when we are already debt-ridden in our Federal budget—to spend this kind of money for a problem that can clearly be solved in the State of California.

As stated by Edward Stone, who spent his life there and has been regarded

highly for his outstanding service in this field of conservation and forestry, this is not needed.

I believe that testimony, unfortunately, has not been heard, and I do not think we need to spend $11 million, especially when the State of California has had a surplus—and a substantial surplus—of almost $800 million. If it were really needed, it could be done by the State.

In my opinion this is the kind of legislation that makes us look ridiculous.

Mr. HUNT. Mr. Speaker, I commend my colleague, the gentleman from California (Mr. ROUSSELOT) for his statement. I think it is a good idea that we defeat the rule.

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

Mr. ROUSSELOT. I will be glad to yield to the gentleman from southern California.

Mr. BROWN of California. And from an area not involved.

Mr. Speaker, I have before me the letter the gentleman from California quoted from, from Dr. Stone, whose credentials as an expert are beyond question. I think that Dr. Stone has been somewhat affronted by the recommendations of the U.S. Forestry Service, and the other, presumably less expert people, whom he construed as recommending the wholesale destruction of the eucalyptus trees—and he is apparently a lover of eucalyptus trees.

But the gentleman from California (Mr. ROUSSELOT) did not quote the third page of his letter which says:

> There is still a need for funds to reduce the fire hazard in the hill area just as there is in the many expanding rural-urban interfaces throughout the State.

And he suggests that the bill be modified to require that the $11 million be spent in a more comprehensive and long-range program of eradicating the fire hazard. In other words, Dr. Stone differs with the diagnosis but he does not question the need for the $11 million.

The SPEAKER. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, the gentleman from California is absolutely correct. We have a forestry program of fuel modification, and that is where the dollars should be spent. It should be under the basic jurisdiction of the Forestry Service. That is why I could not agree more with the gentleman who wrote the letter, Dr. Stone. But this is not the proper way to do it. It should be under proper supervision. Therefore, I do agree with my colleague, the gentleman from southern California (Mr. BROWN) and the gentleman from Berkeley, that there is a better way to do it, and this is not the way to do it.

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

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

Mr. COLLIER. Mr. Speaker, I do recognize and I do have sympathy with the problem that this legislation is directed to. However, I cannot for the life of me find any equity in this type of a bill when we in the Middle West for years have had a serious and very costly problem, one which has cost many millions of dollars in connection with the Dutch elm disease. The cost for handling this problem has been borne by the counties, in many instances, and by the local communities and by the State.

I feel that this is really a very unfair approach if we are going to get into this kind of an arrangement. But if we are to get involved in it, then perhaps we should be certain that it ought to be the type of legislation that would present some relief from the very serious, expensive, and very costly problem that we have had in the Middle West also in connection with the Dutch elm disease over the years.

Mr. ROUSSELOT. Mr. Speaker, I think the gentleman from Illinois makes an excellent point. If we are going to get in the habit of calling upon the Federal Government each time a new disease occurs to some type of trees, and have to spend money on that, rather than dealing with it through the normal forestry program, I think that is wrong. I think the gentleman from Illinois is correct. Because if we follow that course we will never come to the end in dealing with such problems.

Mr. Speaker, I sincerely believe that Federal legislation is not the proper way to handle California's problem with diseased eucalyptus trees; as expressed and stated by the gentleman from the University of California at Berkeley, Dr. Stone, it is an improper program.

Mr. SISK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I realize that we have other problems in this country, and we are spending hundreds of millions of Federal dollars on them, but I have not heard of the Dutch elm disease killing anybody. Let me simply say that the Forest Service of the United States has declared that to be an historic and unique problem.

Again, I am not in the area affected, I am 1,000 miles or more from it. But based on their own interpretation, the danger is very paramount for the loss of human lives, and this danger is unique in the history of this country from the standpoint of the magnitude of the problem.

And while we are talking about the letter that was just read earlier from Dr. Stone, I might say that on August 22, two other doctors got into the act in connection with this problem.

I might say that one of these was an Australian university faculty member who declared that his area, the Tilden Regional Park, is an area of extreme eucalyptus fire hazard and that freeze-struck trees, sprouting suckers, offer new perils. And I quote:

> The observation came from Dr. Spencer Smith-White, University of Sydney geneticist and was joined in by Dr. Herbert Baker of the University of California Botany Department. The two men made a detailed survey of the park.
>
> Dr. Smith-White observed that when the freeze-struck trees become covered with sprouts along the main trunk a grass fire can easily ignite the new growth at lower levels causing what he described as an explosive atmosphere of flaming gas which quickly carries to the crown of the tree and then spreads.
>
> Similarly, freeze-killed trees with their loose, dead bark can easily be ignited by grass or brush fires; the flames race up the trunk and then spread to any live trees that may be nearby.
>
> Both of these dangerous conditions now exist in Tilden, Dr. Smith-White declared.
>
> Wherever eucalyptus grow in abundance, the two faculty members said, human settlements must face up to the fact of extreme fire hazard. This results from massive accumulations of ground litter as well as from the oil content in the live trees.
>
> The two professors said the area of greatest danger in the Park exists in a zone bounded roughly by South Park Drive, Big Springs Trail, Sea View Trail and a line running due east from the Native Plant Botanic Garden. There are dead trees, remaining from a previous fire, in this area.
>
> The men advised that all dead eucalyptus should be removed along with any live trees which might form a "fuel pocket" and brush, tree limbs and other eucalyptus litter should be removed annually along with dead trees. Grass should be cut and fire road networks maintained.

I do not know how familiar the Members are with eucalyptus trees, but they are almost as volatile as gasoline. I simply want to note that there are differences of opinion.

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

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

Mr. KETCHUM. I thank the gentleman for yielding.

Of my colleague, the gentleman from California, I would ask only this one question. Not denying the ultimate debate that exists with these trees, there is presently no law in the State of California to preclude the State of California from paying for the damage.

Mr. SISK. I might say that there very definitely is. The matter is going to be discussed later by another one of our colleagues. As my colleague, the gentleman from California, knows, both the local people, the county, the cities of Oakland, Berkeley, and the State together have already spent some $8 or $9 million under what authority they have.

The SPEAKER. The time of the gentleman has expired.

Mr. SISK. Mr. Speaker, I yield myself 1 additional minute, and I yield to the gentleman from California (Mr. MCFALL).

Mr. MCFALL. Mr. Speaker, I should hope that the House would allow us to discuss this matter, to discuss whether or not the State ought to pay for it, whether or not there is a need for the money. It is a fire hazard. It is a health hazard. We should like to have the opportunity to present the truth of these matters, and certainly the Members ought to vote in favor of the rule to allow us to discuss it, and then they can make up their minds, after they have heard the arguments on both sides.

Mr. SISK. I appreciate the statement of my colleague, the gentleman from California.

I yield 5 minutes to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, I hold no brief for the fact that the Governor of

our State will not in fact permit the utilization of any State surplus to meet the needs that we are presenting on the floor of this House. I personally think he should. It is a plight that we have; there is a surplus that we have; and the people in California are being subjected to the imminent hazard that this condition subjects them to in Contra Costa and Alarieda Counties when at the same time there is the wherewithal in the State treasury, if it were the will on the part of the State administration, to take care of the problem. But the fact of the matter is we are confronted with a Governor who refuses to do it, and we are representing people whose lives are in jeopardy. We are not exaggerating this. We are representing people whose very lives are in jeopardy, whose property quite clearly is being endangered by the threat of a holocaust; but, more important than the property, the very numerous lives of people residing in that urban area, surrounded as it is and intruded into as it is, by these growths, now dead, of the eucalyptus trees in the millions, are really jeopardized. It is not a fantasy; it is not an exaggeration to suggest that they are living on the edge of extreme peril, and the State administration will not recognize it to the extent that it will spend any money to assist in any meaningful terms. So we are coming to the Congress because, No. 1, we believe the Congress is more understanding and more sensitive to this sort of a need than is the Governor of the State of California. We believe that to be so.

No. 2, we are coming to the Congress because the Congress of the United States under the present disaster provisions, should a holocaust occur, would clearly step in. The law is eminently clear that once we have destroyed the Bay Area of California, once we have destroyed and killed off numbers of people and destroyed enough property, we will step in. The law is there and very clear. The question is when the holocaust is imminent, will we step in and will we spend at least an ounce now to prevent a pound of cost when that holocaust occurs? We would not expect this House of Representatives to be moved and to be guided by the same motivations and the same lack of sensitivity that the Governor of our State is. We are coming here because we assume this is a different body of people.

So we are asking the House of Representatives to understand that the cost that the Government will bear, if this disaster occurs, aside from the deaths and the tragedies that will result, will be enormous, and the cost will be overwhelming. And that imminent fact is present. To the extent we do not prevent it, we are risking and inviting not only a disaster for those people in that area, many of whom I represent, but we are buying ourselves also a very costly bargain at the end. That does not make sense from any viewpoint.

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

Mr. WALDIE. I yield to my friend, the gentleman from southern California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Is it not true that part of the problem the Governor faces is the State legislature?

Mr. WALDIE. I would not say that is true at all. I would say the problem the Governor faces is his inability to understand human needs. If we could solve that problem, we would have no problem.

Mr. ROUSSELOT. Is not part of the problem to begin with the fact that the ecology groups did not want to cut those trees down?

Mr. WALDIE. If that were true that might be part of the problem, but the Governor has never been known to be an ecologist, and that is not true.

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

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

Mr. SAYLOR. Mr. Speaker, I have listened with interest to our colleague, the gentleman from California, saying this holocaust is imminent. If the citizenry of California feel this holocaust is imminent, then certainly there is a duty upon the Governor and the legislature of California, with their money, to take care of it rather than to sit around and wait for the people of the other 49 States to take care of their problem.

Mr. WALDIE. The gentleman is most astute in stating what I stated at the beginning of my remarks, as the gentleman would have heard had he been listening. The gentleman is quite correct. This is a move which I wish the Governor and the State legislature would undertake, but the fact is if it is not undertaken the Federal Government will have to assist after the disaster. That is the point I am making. We can play all kinds of games we want to play today, but the fact is if that property is damaged and those people are injured and killed, then we will pick up the tab.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. QUILLEN. I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, this appears to be California Day. If the Members will read the minority report they will find in it an old adage that says: "Evil begun, rarely undone." I submit to the Members of the House of Representatives today we are proposing to start a very bad precedent.

Are we going to remove dead trees everywhere? I have dead apple and peach trees in my orchard every year. I say they are not a fire hazard, but they are an insect and disease hazard. I am not coming to the Federal Government and asking it to remove those trees for me.

We were shown some pictures during the hearings on this particular bill. I admit some of these trees are very difficult to remove. I saw a lot of other trees 10 or 15 feet from homes. If they were within 10 or 15 feet of my home, I would have my strong back and my ax and my chain saw and I would get rid of them in a hurry, but apparently the people of California are not willing to do that. I do not know why they are any different than the people of any other section.

I asked some of the proponents of this bill who appeared before our committee, "How do you propose to get rid of these trees once they are down?"

Frankly, they did not know. Some of them said, "Well, I suppose we will burn them."

If these trees are as inflammable as some of these people would have us believe they are, with the pollution problem they already have in California, to burn several millions of trees certainly is not going to do anything to correct that pollution problem.

California has traditionally had fires ever since I have known anything. They have already had their fires this year, and I do not believe they had a single fire in the area where these eucalyptus trees are. In spite of this, in spite of the fire hazard, they continue to build higher priced homes in these fire-prone areas. I can say quite frankly I have not heard one issue mentioned this afternoon.

I was in the great State of California a few weeks ago and happened to be riding with a man from the Sierra Club. He pointed out to me tree after tree after tree which was supposed to be dead but was now sprouting new growth. Some of the trees were so green I thought there were vines on the trees, but they were not vines at all; they were eucalyptus trees sprouting new growth.

Why should this bill be defeated? My heart bleeds for the State of California. Mention has been made of this before on the floor this afternoon, but while I was in California, I picked up this editorial written by Bill Stall of the Associated Press. I am going to read just a few paragraphs of this editorial:

> Californians begin reaping a one-time tax bonanza October 1, getting back a total of $721 million in state treasury surplus.
>
> That figures out to nearly $35 for every man, woman and child in the state.
>
> Governor Ronald Reagan called it the largest state tax rebate in the nation's history when he signed the bill into law Thursday.
>
> The reverse flow of taxes was made possible by an unexpected treasury surplus of $829 million built up over the past two years.

Now I ask those people, how can the great State of California have the colossal nerve to come into the Congress of the United States and ask the taxpayers of 49 other States to pick up a bill which they should pick up themselves? The argument has been made that we should pass the rule and then argue the merits or demerits of this bill. I do not see any better time to argue those merits or demerits than right now.

Therefore, I say let us get on to the business and defeat this rule, because it is a bad bill. I think a great many people are willing to admit that it is a very bad bill. Therefore, I repeat, let us defeat the bill and get on with the business of the House.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. RARICK).

Mr. RARICK. Mr. Speaker, I have no constituents in either north or south California.

I rise in support of House Resolution 511. I want to assure my colleagues that

it is becoming more and more difficult to even get time to debate any of this legislation if we are going to argue all the merits of the case every time the rule comes up. I agree that there may be differences of opinion as to the philosophy of this legislation, but I believe we should vote for the rule and let the case be heard.

I remind all of my colleagues that I am from the State of Louisiana. We have suffered many, many natural disasters over the past years. My people have often come to the Federal Government asking for aid, relief and assistance. And in each instance that we have been hurt, our Federal Government has replied and has shown us the way back from disaster.

I am only asking that we extend the same courtesy to the people and their Representatives from the State of California.

Let us remember that this involves only two counties, with an estimated 2 million dead eucalyptus trees. If any Member is persuaded by the fact that a eucalyptus is somehow like a peach tree or a Dutch elm, remind him that the eucalyptus is a rare imported tree which is very explosive because it contains certain kinds of volatile oils. This makes it almost as combustible as gasoline. If a fire starts this tree throws its branches out when it ignites, and speeds up the fire.

I am not persuaded by the argument that the State of California is fiscally able to handle this situation. I am sure that the people in these two counties of Contra Costa and Alameda feel like my people back home. The State officials send them to the Federal Government for assistance, and the Federal Government says, "It is not our problem, it is for the local people." Then, the two levels of government fight back and forth. In the meantime week after week turns into month after month and the fire hazard and the predisaster condition remains as it is at this moment.

As background information, I should like to inform our colleagues that in the hearings before our Forests Subcommittee we heard testimony from the Office of Emergency Preparedness and the U.S. Forest Service. They indicated in expert testimony that an imminent threat of major disaster did indeed exist. This testimony was corroborated by statements of our colleagues from California, Mr. STARK, Mr. DELLUMS, and Mr. WALDIE, and the senior Senator from California, Senator ALAN CRANSTON.

This threat of a major disaster was not determined by our Forests Subcommittee, but rather by the OEP of the executive branch.

The testimony before the Forests Subcommittee was also supported by the findings of the staff of the Agriculture Committee itself. Our distinguished chairman (Mr. POAGE) directed that a member of the committee staff be sent personally to California to view the situation firsthand and ascertain the facts. His observations and report to the full committee upon his return simply reinforced the findings of the Forests Subcommittee.

May I state clearly to our colleagues that this is not precedent-setting legislation. The executive branch, through the OEP, has already made the determination that a major disaster is imminent. Federal funds are being used for fire suppression in California at this very moment, through the action of the executive branch. Are we then to say it is only a matter for the State government when the President has already, in a limited manner, declared that the Federal Government is directly involved in any disaster which may result in this area of California?

The legislation we seek would but assist the elected Representatives of the people of California to the House of Representatives in their efforts to help the State and local people in their funding and to further alleviate all threat of any major fire disaster.

Mr. Speaker, I suppose the people of California also read the articles in the newspapers which say that their tax money is going for Turkish earthquakes or African or Bangladesh droughts, and they wonder: "Why does all this money go for foreigners?" Yet, some of our colleagues would tell the people of California that we in the House would not even approve a rule so that they could have a day of hearing in the House.

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

Mr. SISK. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. RARICK. Mr. Speaker, the people of these two counties in California are faced with a grave problem not of their own making. We would not be upholding our duty if we turned our backs on them. We should at least give them their day in this Chamber. I, for one, will not have the refusal to give them an opportunity to be heard on my conscience.

Mr. Speaker, they have asked for our help. They deserve to be heard. I, for one, will never turn a deaf ear on any American who asks for help, aid, and assistance from the threat of disaster.

Mr. Speaker, I urge the adoption of the rule so that the House may consider the bill.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

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

Mr. TEAGUE of California. Mr. Speaker, would not my friend agree that we have here a predisaster situation which is quite comparable to that which resulted in the building of levees on the Mississippi River, where the Federal Government spends hundreds and hundreds, and probably millions, of dollars to prevent disaster?

Mr. RARICK. Mr. Speaker, I agree completely with the gentleman. I remind the gentleman that only last week we passed a Flood Insurance Act, which was also aimed at a predisaster situation.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, this is one of the worst bills that I have ever seen come before the House of Representatives in my time in Congress. This bill has absolutely no business being here.

There is no reason why the California legislature, a State with a surplus of $700 to $800 million, cannot provide the $11 million requested from the Federal Treasury to take care of this situation.

If this legislation is approved it will establish a precedent which will say to the people of Iowa, the Midwest and elsewhere that if, for instance, you have a cloudburst in the upper reaches of one of your rivers it will not be necessary to wait and determine whether there is a flood. All you have to do is pick up the telephone, call Uncle Sugar in Washington, tell him that a flood is threatened because there is a heavy rain and demand a handout from the Federal till.

I repeat that this is a dangerous precedent which will open the door to limitless raids on the U.S. Treasury.

Mr. Speaker, this bill, if approved, will be known as the "You clipped us" bill, and I do not want the job of going home and explaining to my constituents that I voted for it.

Mr. Speaker, I hope the rule will be defeated.

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

Mr. SISK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I appreciate the comments which have been made. Many of us here have been confronted with disaster after disaster.

I recall Hurricane Agnes, and I could not help but think of my friend up in Pennsylvania. Many of us supported the legislation offered in connection with that disaster as we have supported emergency help for people throughout this country. I believe again the gentleman from Pennsylvania has adequately explained the reasons why the Members of this Congress should be urged to support the legislation for impending disaster to these people, who are faced with disaster just as imminent and just as dangerous and just as hazardous as are the hurricanes which we spent hundreds and thousands and millions of dollars for on the east coast.

I believe it is unfortunate that at least the implication has been left that these people are seeking a handout. They are not seeking a handout; they are seeking help.

Mr. EDWARDS of California. Mr. Speaker, currently, the cities of Oakland and Berkeley, Calif., are faced with an imminent fire hazard. During December of last year, a freeze killed over 2 million eucalyptus trees, which cover the Oakland-Berkeley hills. Because of the large population in the hills and the high flammability of eucalyptus trees, a fire in this area could result in over $200 million in damages and the loss of many lives. In order to avert this potential disaster it is necessary to remove the dead trees and debris.

State and local agencies have spent $4 million on fire prevention and control measures. Emergency water supply facilities have been built to provide greater protection for the area. A state of emergency has been declared in the two counties involved which makes them eligible for $2 million in Federal aid. However, this aid is insufficient to eradi-

cate the hazard. It is estimated that the total cost to the area for complete removal of the dead trees will exceed $50 million. This is certainly too high a price for State and local entities to bear alone.

H.R. 7545 calls for $11 million from the Federal Government to aid the potential disaster area. The passage of this bill is necessary to eliminate the immediate and extraordinary threat with which the people of Oakland and Berkeley are faced. We must act quickly to alleviate this potential disaster which is beyond the capabilities of State and local government to prevent.

Mr. SYMMS. Mr. Speaker, the time honored phrase "Evil begun, rarely undone" quite appropriately describes the dangerous precedent-setting aspects of S. 1697 as it provides "predisaster" assistance and further assumes that it is the Federal Government's duty to assist private property owners in the protection of their property. The long-run implications of this action would be to increase the degree of Federal protection or control of private land, which is highly undesirable.

What disturbs me more, perhaps, is the fact that the State of California has a budget surplus of $850 million—they are rebating $600 million this year to the taxpayers—yet Alameda and Contra Costa Counties have the nerve to ask the taxpayers in the other 49 States to subsidize this project. It is important to point out that other States have had similar problems, but they have been solved at the local level. For example, Denver, Colo., has removed about 18,000 Dutch elm trees in the last 6 years at a cost of $100 per tree overall; this was provided by State and local funds.

In my opinion, Mr. Speaker, the Federal Government is grossly overextended in its activities right now, so why get involved in another area that is a local or private matter. During the August recess I visited the affected areas in California. I will admit that there is a fire hazard. But fiat paper money is also a fire hazard, and the inflation it causes is hazardous to all Americans in all 50 States. Mr. Speaker, I urge my colleagues to carefully consider the precedent that would be set by S. 1697 and join me in defeating the rule for this bill.

Mr. DELLUMS. Mr. Speaker, I am pleased to rise in support of House Resolution 511 which deals with the bill to provide much needed relief from a potentially catastrophic fire.

Today the House is scheduled to consider S. 1697, to provide additional Federal help for fire suppression and removal of 2 million volatile dead and freeze-damaged eucalyptus trees in Contra Costa and Alameda Counties, Calif. The area has already been declared eligible for Federal assistance. Local residents and State and Federal officials have been working continuously to abate the fire threat created by the trees since the extent of the damage was discovered in February of this year.

Despite these efforts the Forest Service has estimated there is a very significant chance of a fire of major Federal disaster proportions—approximately $200 million in damage—occurring in this area. In all likelihood, many people could be expected to perish in such a holocaust.

Critics of the bill have attempted to imply that this situation is no different from any other area threatened by forest fire or plagued by damaged trees. Nothing could be further from the truth. Forest Service officials testifying before the Congress have stated that this fire threat is unique in the history of the United States due to the combination of the highly flammable damaged eucalyptus and suburban area with limited narrow roadways as the only escape route for thousands of low- and middle-income residents.

Make no mistakes. Exhausting local self-help measures have been taken and are continuing in an attempt to clear the damaged trees. The State government is seeking and finding ways around a prohibition in the California constitution against providing aid to private individuals. Further Federal encouragement to abate the fire threat is necessary to provide safety to the area. Local State and Federal expenditures have totaled over $10 million but still remain inadequate.

The damaged trees have turned Alameda and Contra Costa Counties into a tinderbox threatened by arson and accidental fire. According to official estimates, a fire beginning in the damaged eucalyptus stands could wipe major urban areas completely off the face of the earth. This threat will be intensified next year as more ground fuel builds up this winter.

S. 1697, as amended by the Committee on Agriculture, does not authorize 1 penny of additional Federal assistance unless more State and local dollars are spent on tree removal and fire suppression. Even then, the cost-sharing and matching-fund features of the bill will probably limit Federal expenditures to slightly above one-third of the total cost of abatement of the fire threat. This is a one-time bill to meet a one-time threat.

Last December northern California experienced a very rare and ruinous winter freeze; temperatures dropped so far below the normal range that snow fell in the East Bay instead of rain. Everywhere plant life suffered and died, and the statewide agriculture losses are estimated at over $210 million.

In the East Bay an estimated 2 million eucalyptus trees are dead. Now these trees, located in the heart of a major urban area, must be removed because they have become an imminent dangerous fire hazard to the 1 million people who live and work in the Bay Area.

The fire threat posed by the dead eucalyptus trees is particularly unique. They are like gasoline, they explode, and their flaming debris has been known to travel up to 12 miles. Their combustibility combined with their location in a major urban area poses the potential of a holocaust, one far greater than the normal fire threats of southern California and a possible tragedy that would significantly dwarf the problems caused by the death of other trees.

Eucalyptus are generally regarded as a "dirty" species of tree because of falling bark, leaves, and seed pods. As such, they present a unique fire problem because of the oil content, stringy bark, and fuel buildup. Because of the exfoliating bark ground fires can become rapidly extended into tree crowns. The oil content of the trees was not affected by the freeze and the leaves retain their volatile characteristics which have been highlighted by the stripping of the dead bark from the damaged trees. In addition, blue gum eucalyptus trees are now sprouting profusely from the trunks and stems and the new exfoliation intensifies the fire hazard of this unique species.

Federal officials state that the fire problem is 51 percent greater in the dead eucalyptus stands than existed in the live stands. Additionally, Federal officials have stated several additional factors increase fire hazards in the area. First, with the loss of the tree canopy, increased temperatures and wind movement may be expected at the ground level, resulting in a reduction in moisture content in the ground fuels and an increase in ignition potential; second, separation of bark from the trunk will increase both aerial and ground fuels; third, bark separation into larger pieces will increase spotting potential because of larger firebrands. Leaves remaining on the trees will contribute to spotting; and fourth, more flammable ground fuels increase the potential for ignition from aerial firebrands.

I might also add, that I was a member of the Berkeley City Council for 3½ years, and we discussed on numerous occasions the lack of accessibility of fire equipment into the Berkeley-Oakland Hills. The streets are winding, narrow, and crowded in the hills. A small fire could easily become a major holocaust before the necessary equipment could get into the area, as there are few access roads into the Berkeley-Oakland Hills.

The effort to meet this disaster has been a magnificent bipartisan effort on the part of the State government, local governments and agencies and private citizens.

Governor Reagan has actively joined with local officials, Senators CRANSTON and TUNNEY and the Bay Area congressional delegation to meet the crisis.

The State and local governments have already expended approximately $7 million dollars on fire suppression. The projected cost is $54 million.

The disaster legislation clearly recognizes the desirability of Federal participation in meeting potential disasters of this magnitude.

Unlike the problems of the potential hazards of floods which can be addressed under existing legislation by the Corps of Engineers, there is no Federal agency presently authorized to fully provide the needed assistance.

The Senate has already acted, House action now can help to insure that we will not have to act subsequent to a holocaust that, if it happens, is projected to destroy hundreds of millions of dollars and hundreds of lives.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. PRICE of Illinois). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SISK. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 233, not voting 38, as follows:

[Roll No. 447]

AYES—163

Abzug	Gray	Perkins
Adams	Gubser	Pickle
Addabbo	Gude	Poage
Alexander	Hanna	Podell
Anderson, Calif.	Hansen, Wash.	Price, Ill.
	Harrington	Price, Tex.
Annunzio	Hawkins	Rangel
Ashley	Hays	Rarick
Aspin	Hechler, W. Va.	Rees
Badillo	Helstoski	Reid
Barrett	Hicks	Reuss
Bell	Holifield	Riegle
Bergland	Holtzman	Roberts
Biaggi	Horton	Rodino
Bingham	Howard	Roe
Blatnik	Hungate	Rooney, Pa.
Boggs	Johnson, Calif.	Roybal
Bolling	Jones, Ala.	Ruppe
Bowen	Jones, Tenn.	Sandman
Breckinridge	Jordan	Sarbanes
Brinkley	Kazen	Seiberling
Brooks	Kluczynski	Sikes
Brown, Calif.	Koch	Sisk
Brown, Mich.	Leggett	Slack
Burke, Mass.	Lehman	Smith, Iowa
Burton	Litton	Smith, N.Y.
Byron	Long, La.	Staggers
Carey, N.Y.	Long, Md.	Stanton, J. William
Carney, Ohio	McCloskey	
Chisholm	McFall	Stark
Clark	McKay	Steelman
Clausen, Don H.	Mahon	Stephens
	Mailliard	Stokes
Clay	Mathias, Calif.	Stubblefield
Corman	Matsunaga	Stuckey
Daniels, Dominick V.	Mayne	Studds
	Meeds	Sullivan
Danielson	Melcher	Teague, Calif.
de la Garza	Metcalfe	Teague, Tex.
Dellums	Mezvinsky	Thompson, N.J.
Denholm	Minish	Treen
Dent	Mink	Ullman
Dorn	Moakley	Van Deerlin
Eckhardt	Mollohan	Vigorito
Edwards, Calif.	Morgan	Waldie
Evans, Colo.	Mosher	Wampler
Flood	Moss	Wilson, Charles H., Calif.
Foley	Myers	
Ford, William D.	Nedzi	
	Nix	Wilson, Charles, Tex.
Fraser	O'Hara	
Frelinghuysen	O'Neill	Wolff
Fulton	Owens	Wright
Gettys	Passman	Wyatt
Ginn	Patman	Young, Ga.
Goldwater	Patten	Young, Tex.
Gonzalez	Pepper	Zablocki

NOES—233

Abdnor	Butler	Dellenback
Andrews, N. Dak.	Camp	Dennis
	Carter	Derwinski
Archer	Casey, Tex.	Devine
Arends	Cederberg	Dickinson
Armstrong	Chappell	Dingell
Bafalis	Clancy	Donohue
Baker	Cleveland	Downing
Bauman	Cochran	Drinan
Beard	Cohen	Dulski
Bennett	Collier	Duncan
Bevill	Collins, Tex.	du Pont
Biester	Conable	Edwards, Ala.
Blackburn	Conlan	Eilberg
Boland	Conte	Erlenborn
Breaux	Cotter	Esch
Broomfield	Coughlin	Eshleman
Brotzman	Crane	Fascell
Broyhill, N.C.	Cronin	Fish
Broyhill, Va.	Culver	Fisher
Buchanan	Daniel, Dan	Flowers
Burgener	Daniel, Robert W., Jr.	Flynt
Burke, Fla.		Ford, Gerald R.
Burleson, Tex.	Davis, Ga.	Forsythe
Burlison, Mo.	Davis, Wis.	Fountain
Frenzel	Lott	Sarasin
Frey	Lujan	Satterfield
Froehlich	McClory	Saylor
Fuqua	McCollister	Scherle
Gaydos	McCormack	Schneebeli
Giaimo	McKinney	Schroeder
Gibbons	Macdonald	Sebelius
Gilman	Madden	Shipley
Goodling	Madigan	Shoup
Grasso	Mallary	Shriver
Green, Oreg.	Mann	Shuster
Green, Pa.	Maraziti	Snyder
Griffiths	Martin, Nebr.	Spence
Gross	Martin, N.C.	Stanton, James V.
Grover	Mazzoli	
Gunter	Michel	Steed
Haley	Miller	Steele
Hamilton	Minshall, Ohio	Steiger, Ariz.
Hammer-schmidt	Mitchell, Md.	Symington
	Mitchell, N.Y.	Symms
Hanley	Mizell	Talcott
Hansen, Idaho	Montgomery	Taylor, Mo.
Harsha	Moorhead, Calif.	Taylor, N.C.
Harvey		Thomson, Wis.
Hastings	Moorhead, Pa.	Thone
Hébert	Murphy, Ill.	Thornton
Heckler, Mass.	Natcher	Tiernan
Heinz	Nelsen	Towell, Nev.
Henderson	Nichols	Udall
Hinshaw	Obey	Vander Jagt
Hogan	O'Brien	Vanik
Holt	Parris	Walsh
Hosmer	Pettis	Ware
Huber	Peyser	Whalen
Hudnut	Pike	White
Hunt	Powell, Ohio	Whitehurst
Hutchinson	Preyer	Whitten
Ichord	Pritchard	Widnall
Jarman	Quie	Wiggins
Johnson, Colo.	Quillen	Williams
Johnson, Pa.	Railsback	Wilson, Bob
Jones, N.C.	Randall	Winn
Jones, Okla.	Regula	Wydler
Karth	Rinaldo	Wylie
Kastenmeier	Robinson, Va.	Wyman
Keating	Robison, N.Y.	Yates
Kemp	Rogers	Yatron
Ketchum	Roncalio, Wyo.	Young, Alaska
King	Roncallo, N.Y.	Young, Fla.
Kuykendall	Rosenthal	Young, Ill.
Kyros	Rostenkowski	Young, S.C.
Landgrebe	Roush	Zion
Landrum	Rousselot	Zwach
Latta	Roy	
Lent	Ruth	

NOT VOTING—38

Anderson, Ill.	Delaney	Murphy, N.Y.
Andrews, N.C.	Diggs	Rhodes
Ashbrook	Evins, Tenn.	Rooney, N.Y.
Brademas	Findley	Rose
Brasco	Guyer	Runnels
Bray	Hanrahan	Ryan
Brown, Ohio	Hillis	St Germain
Burke, Calif.	McDade	Skubitz
Chamberlain	McEwen	Steiger, Wis.
Clawson, Del	McSpadden	Stratton
Collins, Ill.	Mathis, Ga.	Veysey
Conyers	Milford	Waggonner
Davis, S.C.	Mills, Ark.	

So the resolution was rejected.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Rhodes.
Mr. Waggonner with Mr. Chamberlain.
Mr. Davis of South Carolina with Mr. Bray.
Mr. Diggs with Mr. Findley.
Mr. Mathis of Georgia with Mr. Skubitz.
Mr. McSpadden with Mr. Veysey.
Mr. Mills of Arkansas with Mr. McEwen.
Mr. Stratton with Mr. Del Clawson.
Mr. Milford with Mr. Anderson of Illinois.
Mr. Andrews of North Carolina with Mr. Ashbrook.
Mr. Delaney with Mr. Brown of Ohio.
Mrs. Burke of California with Mr. Guyer.
Mr. St Germain with Mr. McDade.
Mr. Conyers with Mr. Steiger of Wisconsin.
Mr. Murphy of New York with Mr. Hillis.
Mr. Rose with Mr. Hanrahan.
Mr. Evins of Tennessee with Mrs. Collins of Illinois.
Mr. Brademas with Mr. Runnels.
Mr. Brasco with Mr. Ryan.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered.

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

There was no objection.

PERMISSION FOR THE COMMITTEE ON THE DISTRICT OF COLUMBIA TO FILE REPORTS ON H.R. 9682, DISTRICT OF COLUMBIA REORGANIZATION

Mr. ADAMS. Mr. Speaker, I ask unanimous consent that the House Committee on the District of Columbia may have until midnight tonight to file certain reports on H.R. 9682, the District of Columbia reorganization bill, called the home rule bill.

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

There was no objection.

FURTHER LEGISLATIVE PROGRAM

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

Mr. O'NEILL. Mr. Speaker, I take this time to announce an addition to the program for this week of H.R. 9536, the bill that prohibits blackouts of professional sports events that are sold out. The bill is scheduled to be heard by the Rules Committee on Thursday morning and if a rule is granted it is our intention to call the bill up that afternoon.

I might also add that we intend to follow the same procedure with H.R. 9639, the School Lunch Act amendment, which is already on the schedule this week, which is before the Rules Committee.

PERSONAL EXPLANATION

Mr. BRADEMAS. Mr. Speaker, on the rollcall just completed I was at the time of the rollcall participating in a conference in the Capitol on the arts and humanities bill. The bells did not ring in that room. Had I been present I would have voted "aye" on the rule (H. Res. 511).

PERSONAL ANNOUNCEMENT

Mr. HOLIFIELD. Mr. Speaker, I was necessarily absent from the sessions of the House of Representatives on Wednesday, September 5, Thursday, September 6, and Monday, September 10, on official business. Had I been present, I would have voted as follows:

Rollcall:	Vote
434	Nay
435	Yea
436	Yea
437	Yea
438	Yea
439	Yea
440	Nay
441	Yea
442	Yea
443	Yea

PUBLICITY ON FARM PRICE INCREASES

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

Mr. POAGE. Mr. Speaker, last weekend there was considerable publicity given to the price figures released by the Department of Labor, indicating an increase in farm prices and processed foods of 19.3 percent. Very few, if any, news reports have stated over what period this increase took place. Actually, I am advised that the figures reflect the increase from July 10 to August 14. This is a sizable increase, but the thing that made it spectacular is that it occurred suddenly.

Over the last 20 years, there has been an increase of 133 percent in manufacturing wages, whereas the 20-year increase from agricultural products, including the recent upsurge, has been only 110 percent.

The Labor Department reports generally were reported in a manner that would indicate that farm prices were responsible for the entire increase in the price of food. This simply is not true. Take the case of bread, which sold at 16.3 cents per pound loaf 20 years ago, when wheat brought $1.87 per bushel. A pound loaf now is bringing 26.5 cents, with wheat quoted at the end of last week at $4.95. This is an increase of 10.2 cents per loaf. If we were to figure wheat at $5.25, its August 20 level and the highest on record, the cost of the wheat in a 1-pound loaf of bread still would be only 6.1 cents. Twenty years ago it was 2.4 cents, a difference of only 3.7 cents.

Obviously, only a third of the increase taking place in the retail price of bread over the past 20 years can be attributed to the increased return to the grower of the wheat used in that loaf. So how can anyone justly charge the farmer with responsibility for the 10-cent increase in the price of bread.

The most disturbing feature of the entire report on farm prices is that the Labor Department selected the particular dates that it did for this survey taken August 14. The very same news story—Washington Post, September 8—points out that after August 14, corn prices dropped 30 percent, soybeans 47 percent, wheat 10 percent, cattle 15 percent, hogs 25 percent, and chickens 27 percent. These drops are considerably larger than the increases which were reported in the headlines. Indeed, in every case, current farm prices are actually less than they were on August 13, and in most cases substantially lower. But a drop in farm prices is rarely headlined and even more rarely noticed by the consumer. Consumers often demand lower farm prices but rarely benefit from such lower prices when they occur.

STATEMENT ON THE CIVIL RIGHTS ASPECTS OF GENERAL REVENUE SHARING

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

Mr. EDWARDS of California. Mr. Speaker, I rise to call to the attention of my colleagues the very crucial area of the civil rights aspects of general revenue sharing. Surely, all of us are aware of the results of the drastic slashes of the Nixon administration in categorical assistance to many of our citizens, senior and otherwise, who need aid in health and dental care, legal services, vocational training, and community services.

Perhaps, not as well known is the fact that over 38,000 jurisdictions of government are receiving in the first year of the program over $5 billion in general revenue sharing funds. Of increasing concern to the Subcommittee on Civil Rights and Constitutional Rights of the House Judiciary Committee, which I chair, is the failure to collect and analyze beneficiary impact data and to develop adequate compliance machinery to insure that Federal civil rights laws are being complied with in the expenditure of these funds.

Interest in this vitally important area has prompted the subcommittee to initiate a series of hearings on the civil rights aspects of general revenue sharing. Mr. Graham Watt, Director of the Office of Revenue Sharing, appeared before the subcommittee on September 6, 1973, and pledged to "initiate all the administrative actions necessary to effect the forfeiture of funds used in programs found to be discriminatory, and we will not hesitate to withhold all entitlement funds from such a government—until it is established that the government will comply with the nondiscrimination provisions of the State and Local Fiscal Assistance Act (Sec. 122) and of our Regulations (38 CFR § 51.32)."

In another month and a half, it is our intention to hold additional hearings during which the subcommittee will hear from representatives of national, State, and local organizations relative to the disbursement of general revenue sharing funds in their communities. I have already been apprised of several possible violations of the nondiscrimination provision and it is the responsibility of my subcommittee to look into the circumstances and to refer these matters to the Office of Revenue Sharing and the Department of Justice if such action is appropriate.

Mr. Speaker, I would hope that all Members are alert to this important subject, the requirement that these huge sums be spent in compliance with the will of Congress as enacted in the various civil rights laws.

THE FUTURES MARKETS

(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, in the last Congress and again in this Congress, I have sponsored a bill to require that commodity futures markets designate a number of places at which commodities may be delivered to satisfy obligations under futures contracts.

One of the commodities markets contributions to our economy, is to provide a means for farmers, rural elevators, and processors to shift speculative risks to people who want to speculate and give the producers and processors a more secure operating position.

The commodities markets are now under fire because of large, unreasonable fluctuations in prices which many believe is the result of excessive speculation. The value of contracts has frequently been out of any reasonable relationship with the cash value of the commodities involved. A couple of years ago, Pork belly contracts were 50 percent higher than the actual commodity during a squeeze by the longs. In recent months, contracts for corn were far above the cash market because no one could get corn into Chicago to deliver in settlement of their futures contracts.

Obviously, if speculation and manipulation of the futures contracts is to be curbed and a reasonable relationship to the actual commodity maintained, it must always be possible to settle up by delivering the commodity itself.

In the past year, lack of transportation for grain has added to the problem. In the case of soybean and grain crops, even if storage was available for delivery on futures contracts, farmers and rural elevators who had hedged commodities could not get transportation to make delivery.

As a consequence, hundreds and perhaps thousands of farmers and rural elevators who sold futures contracts to "hedge' or protect their prices, were financially hard pressed because they could not sell or settle with actual commodities in an almost wildly rising market.

Two Iowa State University economists have recently released a study concluding that the Chicago Board of Trade, as one example, should designate 20 or 30 approved delivery points for corn and soybeans.

I am including in the record an account of that report published by Feedstuffs magazine.

In view of the failure of the commodity exchanges to establish alternate or multiple delivery points, as is clearly needed, it is my opinion that Congress should enact legislation speedily to require that a strong regulatory agency with authority and responsibility be designated to establish this and other reforms for commodity futures trading. Currently the Commodity Exchange Authority lacks muscle and is not effectively regulating the billions of dollars of transactions under their surveillance.

The article follows:

[From Feedstuffs magazine, Aug. 27, 1973]

ECONOMISTS SEEK GRAIN FUTURES DELIVERY CHANGE

AMES, IOWA.—Two Iowa State University economists have proposed changes in grain futures contracts that they say would restore the usefulness of the futures market for hedging. Bob Wisner and Marvin Skadberg have suggested the Chicago Board of Trade permit delivery of corn and soybeans at up to 20 to 30 approved locations in ma-

jor midwestern producing states as well as in Chicago, the only current delivery point.

The economists contend that the futures market's function of reducing price risks for farmers and the grain industry has been hindered by transportation and storage problems in Chicago. Now either farmers receive lower grain prices or grain users pay higher prices than would occur if the hedging market was working effectively, they said.

With the handling and storage problems in Chicago this past season, Wisner and Skadberg said the threat of delivering actual grain on a futures contract was greatly reduced. So at times, wide and unpredictable differences existed between cash and futures prices at contract maturity.

The ISU economists cited July corn futures as an example of the effects delivery impediments can have on cash-futures price relationships. On July 20, 1973, the July corn futures price closed at $3.80 per bushel—about $1.13 per bushel above the closing Chicago cash price for No. 2 yellow corn on that day. If delivery had been possible, a strong incentive would have existed to buy cash corn, sell futures contracts and deliver on the futures contracts, Wisner and Skadberg said.

They added that several Iowa grain elevators verify it has been almost impossible to deliver on corn and soybean futures contracts in recent months. The specialists cite full warehouses, need for additional working space to handle heavy export movement and congestion in the rail switching district of Chicago.

They also pointed to recent grain industry trends as favoring more delivery points. "We are producing and marketing twice as many soybeans and 50% more corn today than just 10 years ago," they said. "Capacities of warehouses approved for delivery on futures contracts in Chicago have not kept pace with this volume of grain being marketed."

While the volume and value of the Chicago cash market continues to grow, other cash markets also are growing, leaving Chicago with only a fraction of the total marketings, they added. The domestic processing industry, U.S. feeding market, and major exporting points have developed in other parts of the country.

Wisner and Skadberg refer to the success of multiple delivery points for soybean oil and meal, live cattle and live hog future contracts. They believe the multiple delivery point concept will work for corn and soybeans, too.

The proposed change would permit delivery of corn and soybeans at approved warehouses in major midwestern producing states as well as in Chicago. Approved warehouses outside Chicago would include country and terminal elevators that meet specified minimum facilities and handling capabilities.

According to the proposal, futures prices at points outside of Chicago would be reduced by the rail freight cost from there to Chicago. Extensive deliveries on a futures contract would not be anticipated since they would be made only when the market is not operating properly. With multiple delivery points, a wider section of the grain industry including farmers would help keep the futures-cash price relationships reasonable.

THE LATE MARGUERITE DAVIS

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

Mr. GERALD R. FORD. Mr. Speaker, it is with sadness that I inform the House of the death August 17 during the congressional recess, of newswoman Marguerite Davis. Maggie Davis, as we knew her, was a United Press International reporter and news executive for more than 30 years.

Everyone who knew Maggie Davis loved her. We in the Michigan delegation knew her especially well because as a UPI regional reporter she covered our State. Maggie was a sharp and thorough reporter, but she had a gentle quality which made her peculiarly endearing.

Miss Davis joined UPI, then United Press, in December 1942, in Madison, Wis. She later worked in Omaha and Lincoln, Nebr., and in Chicago, where she became the first woman to head a major UP bureau. She also managed the Lincoln bureau.

Maggie was transferred to Washington in October 1959 as a Midwest regional reporter and became a member of the general staff in 1971. She went to New Orleans last December to be with her family after brain tumor surgery.

Miss Davis was born October 22, 1917, in Huntington, W. Va., and attended the public schools in Memphis, Tenn.; Gulfport, Miss.; and Las Animas, Colo. She was graduated from Sophie Newcomb College in New Orleans.

She worked briefly in public relations after her graduation from college and then joined UP. A wonderfully kind person, Miss Davis devoted much of her free time to helping the disabled.

Miss Davis is survived by a brother, Terrell, and an aunt, Nina P. Davis, both of New Orleans.

We will all miss Maggie. She was a wonderful person.

THE LATE MARGUERITE DAVIS

(Mr. GROSS asked and was given permission to extent his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, I join with the distinguished minority leader, Mr. FORD, in expressing my deep regrets and sense of loss in connection with the death of Marguerite Davis, one of the ablest and dedicated news reporters I have ever known.

I came to know "Maggie," as she was known to so many of us, when she was assigned by United Press International to report the news in Congress affecting the Midwest region.

Her untimely and tragic death as the result of a brain tumor is a real loss to the journalism profession as well as a personal loss.

A LONGER LOOK AT OUR RAIL PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY), is recognized for 10 minutes.

Mr. MCKINNEY. Mr. Speaker, the court-imposed October deadline for a congressional solution to our rail crisis is fast approaching. While there is consensus in Congress that the Penn Central cannot be allowed to go out of business, there exists no consensus on how to save the Penn Central and the other bankrupt railroads.

Innumerable legislative proposals have been introduced to design a new structure for the railroad industry, ranging from outright nationalization, creation of regional authorities or for-profit corporations, an Amtrak-type partnership of Federal money and private management, to liquidation or Federal subsidy of existing companies.

I have studied these various plans and frankly find them inadequate to the task of designing a new structure for the railroad industry. Several of the proposals create the danger of losing too much trackage or provide for inadequate restructuring; the organizational and financial complexity of some of the bills is staggering; many avoid or seem hamstrung by the labor question; still others address the issue of abandonments in a manner appalling to the economic viability of some of our local communities. Moreover, most of the plans only contemplate acquirers of the bankrupt Penn Central line as other railroads or the Federal Government. No recognition is given to the fact that perhaps other carriers could acquire parts of the Penn Central empire; that perhaps State and local governments might want to participate in the system; that perhaps shipper cooperatives or even private business might buy portions of the railroad.

Gentlemen, a highly innovative—yes, revolutionary—approach to our rail system is imperative. When Congress created Amtrak we had high hopes but we have witnessed no dramatic revitalization of passenger service. We now face a much more serious dilemma: preservation of our Nation's freight and passenger service. To insure rejuvenation of our railroads, we must preserve the maximum number of options and I do not see this materializing through hurried congressional action. We need a master plan for survival, not any tinkering approach.

Before passing legislation on the railroads, Congress must have answers at its fingertips: what the core system will be; the value of rail lines and property; how much it would cost to acquire such a system; what Federal assistance is necessary and what form it should take; the availability of private moneys for investment; the possible capital and debt structure of any new corporation to be created; what type of structural changes are needed in the industry; what size labor force is required to operate the system; what kind of supervision of the railroads is appropriate; what amount of revenues can be expected; how much money is needed for rehabilitation and modernization; how best to handle the several interests of employees, creditors and shippers, et cetera.

No one really knows enough at this time to lay out specific programs or dollar commitments. It would be a mistake to pour money into a system without adequate preplanning and unless there are fundamental changes in the system. I do not want to effect an unnecessary degree of governmental intervention or cause a voter backlash or Presidential veto because of overauthorization. What I am saying is by enacting legislation now—without a full and complete study of the situation—we will be legislating blindly. There are too many unknowns to approach the problem rationally and in a fiscally responsible manner.

Moreover, I might add that I do not believe Congress should simply address itself to the Northeast rail crisis at this time—and later to the Midwest rail situation which, undoubtedly, will shortly also become a crisis. We must provide a coordinated, integrated rail system for the entire Nation and not approach the problem in our usually piecemeal fashion, only legislating when a crisis occurs. Our national transportation system demands a total approach.

Hence, before the August recess I joined with the other Members of the Connecticut congressional delegation in introducing H.R. 9929, the Midwest and Northeast Rail System Development Act. This legislation establishes a Rail Emergency Planning Office within the Interstate Commerce Commission, with the mandate to identify a restructured rail system and to submit recommendations as to the best means to bring into existence the restructured rail system. This Office would be answerable to the Congress since monthly reports must be submitted to the House and Senate Commerce Committees. In its task the Office would be assisted by the Department of Transportation, the ICC, and an advisory council.

Under this legislation the Rail Emergency Planning Office would be required to conduct a comprehensive investigation, surveying existing rail transportation operations and facilities, analyzing rail service needs, and studying methods of effecting economies in the cost of rail system operations. While economic factors will play a vital role in the authorized investigation, at the same time the legislation spells out in detail the social and environmental factors that also must be considered. In other words, the facts on all aspects of restructuring the rail system would be garnered in order that a sensible and viable rail identification plan could be devised. And from there would follow the recommendations—and alternative plans—for effecting the restructured rail system. With such comprehensive information at its disposal, Congress could then legislate a solution—and I use the term "legislate" in the true sense of the word.

Granted this bill—a study-plan over a 1-year period—may look like a "bailout" or "copout" because it does not establish a new railroad organization immediately. But as I have said, legislating without the facts can only be legislating chaos.

At this time I would like to discuss some of the provisions of H.R. 9929. Undoubtedly the most difficult problem to resolve was the question of who should identify the core rail system and make the recommendations for its implementation; the Department of Transportation, the Interstate Commerce Commission or a blue-ribbon panel? Although I have had many objections to actions of the ICC, I believe that because that agency has had vast experience with railroad operations and the economies of the various sections of our States, it is better equipped than any other governmental body or group of experts to make the difficult decisions as to what services are essential to the public and what services can be dispensed with in the name of operating economy. Also, the ICC proposal for reorganization of the rail system did not provide for as much trackage reduction as DOT's plan and the ICC seems more sympathetic to the labor issue. Moreover, the ICC proposal provided for Federal-State subsidies for abandonment as opposed to DOT's plan which permitted abandonment without customary ICC controls. Finally, the ICC expressed the interest and willingness to participate in designing the core system.

However, I do not believe that the decisions regarding the core system should be left solely to the legal and economic expertise of the staff of the Rail Emergency Planning Office and the ICC. Hence the bill provides for an Advisory Council, representing rail management, labor and passengers, shipper and consumer interests, and representatives of the States in the rail emergency region to assist in the development of the restructured rail plan. In order to insure that the Council's advice and recommendations would indeed be seriously considered, the bill provides that the final identification plan of the Rail Emergency Planning Office must receive majority approval of the Advisory Council.

As we all know, the freight and passenger service which the Penn Central provides for the Northeast is no luxury; the Penn Central is at the very heart of the transportation system of the entire northeastern sector of the country, essential to the well-being of our economy and environment.

My district alone has a sizable commuter constituency, almost 25,000 daily commuters to New York. I have been assured by Connecticut's department of transportation that even if the Penn Central is liquidated, the commuter service will continue because of prior arrangements the Connecticut Transportation Authority and the Metropolitan Transit Authority of New York have made with the railroad and the courts. Moreover, Connecticut has the option to purchase the rail right-of-way. However, the liquidation of the Penn Central would place an enormous burden upon Connecticut, even in the commuter area, and any legislation that Congress passes on the rail problem must take into account commuter and intercity passenger service. Hence, of importance to my district is that provision of the bill requiring a study of intercity and commuter passenger service in the rail emergency region and the incorporation of such passenger service in the core system.

Also, the bill requires that DOT submit to Congress and the Rail Emergency Planning Office its proposed plan for implementation of its "Recommendations for Northeast Corridor Transportation," a study which that agency completed in 1971. I believe it is time the Federal Government acquire a right-of-way between Washington, New York, and Boston. We must have such a transportation system and the price will never be lower.

From New England's point of view, one major problem is that the Office of Management and Budget has rejected DOT's proposal to modernize the entire Northeast passenger rail ccrridor and is pushing for a much cheaper modernization of only the Washington to New York section of the corridor. The New England's Governors' Conference has taken a strong position in favor of the modernization of the entire corridor and I agree. No more of this piecemeal approach; we need total passenger transportation in this growing megalopolis.

Another reason for my cosponsorship of the study bill is that I do not see that any of the other legislative proposals offer much hope for improved, or even continued freight service to the tristate area of Connecticut, New York, and New Jersey.

Connecticut industry depends heavily upon the Penn Central for raw materials and for getting its products to market. If the trains stop, Connecticut's alrealy overburdened highways will have to accommodate approximately 1,000 more trucks per day to carry the nearly 7.3 million tons per year of freight which we now move by rail. Neither the highways nor the environmental and social costs can tolerate such a situation.

Immediate initiation of increased rail freight movement in our area has now become imperative, and we need expanded facilities and improved connections for enhanced rail freight movement through the Northeast corridor. The economy of our area necessitates a thorough study of the situation. For example, we have to remove the bottlenecks which impede rail freight transit in our area, including the elimination of the barrier of the Hudson River at a point of lower New York City. Improvement to the connections among the rail lines must also be investigated. Clearances must be raised to permit passage of piggy-back trailers; construction of piggy-back terminals and car loading terminals to serve rail freight forwarders and consolidators is imperative. The feasibility of construction of a tunnel in upper New York Bay and a New Jersey-Brooklyn connection to utilize the Hell Gate Bridge must be studied. All these possibilities could well be included in the investigation authorized by H.R. 9929.

Again of particular importance to our area's freight and passenger service is that provision of the bill requesting the Governors of each State included in the rail emergency region to submit an analysis of present and future rail service needs of their respective State. This is vital to the rail system being responsive to the requirements of the various States.

Another aspect of importance to Connecticut and every other State in the rail emergency region is the question of abandonment. A line up for abandonment may be uneconomic to a railroad but can mean economic life or death for a manufacturer, shipper, the workers and the community. Abolished freight service to a manufacturing town, for instance, even though it may be financially unprofitable to the railroad, may be even more costly in terms of unemployment, added pollution from increased

trucking, or the isolation of communities cut off from a vital flow of commerce. More than economic costs must be contemplated before abandonments are granted. Hence, this legislation provides for a study of the costs and benefits of any consolidation, relocation, abandonment, or other changes in the promised core system. Moreover, consideration must be given to proposals to help subsidize rail operation over short routes which would otherwise be abandoned.

Of crucial importance to our States and communities is that provision of the bill providing a moratorium on all abandonments. In the Northeast we have a situation where railroads are overbuilt with too much track and too many competing lines. Consolidation will have to occur. But premature abandonments could eliminate choices in determining the core system. We must keep the facilities available for a coordinated system.

Also of paramount importance is preservation of rail rights-of-way. The rights-of-way on lines that are dropped from the core system and not subsidized by the States, communities, shippers or manufacturers, must be protected. Technical developments may restore economic possibilities of feeder lines in the future and other modes of transportation might make use of old transportation corridors. Once a railroad right-of-way has been sold for development, it can never again serve transportation. Hence the Connecticut delegation has mandated the Rail Emergency Planning Office, in preparing an economic and operational study and analysis of present and future rail service needs, to take into account preservation of existing rights-of-way—whether in use or not—for future mass transit use.

I might mention here that Connecticut has acted with great foresight in this area. It is the policy of the State, when an application for an abandonment is approved, to purchase the abandoned right-of-way and put it in the State's land bank for possible future rail transit use.

Mr. Speaker, I believe H.R. 9929 is essential, not only to my State, not only to the Northeast, but also to the entire Nation. I regret it is necessary to go this route of study legislation as I know the public is distressed, to say the least, that Congress has not acted earlier on this matter. Such a study should have occurred 2 years ago when the trustees of the Penn Central first issued their warning on the financial condition of the railroad. Congress did nothing at that time and hence I believe Congress has largely invited this crisis upon itself. But again I emphasize that we will not help the situation if we plunge into this legislation without the facts. One hundred million people live in the 17 States directly serviced by the financially endangered railroads of the Northeast. For these millions of Americans, rail transportation is essential to life itself. We cannot allow these railroads to shut down nor can we rush through legislation and later suffer the repercussions of hasty action. We must move deliberately, with facts in hand, to insure a system of rail service, both passenger and freight, that will prove to be a model for emulation.

N. GWYNNE DODSON, CITIZEN-INDUSTRIALIST RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SAYLOR) is recognized for 10 minutes.

Mr. SAYLOR. Mr. Speaker, I call the attention of my colleagues to the following newspaper account of the successful career and recent retirement of Mr. N. Gwynne Dodson, president and chief executive officer of the Pennsylvania Electric Co.

Mr. Dodson's career began in 1924, when, at the age of 16, he was employed as a messenger for a utilities company later to become part of the ever growing Penelec system. Since that time, Gwynne Dodson has worked and excelled in every position he has held within the utilities industry. The confidence, initiative, and expertise with which he accomplished his tasks over his first 45 years in the business earned him the presidency of the Johnstown, Pa.-based utility company in 1969.

He has not only been a success in his professional endeavors—Mr. Dodson has been a model citizen. His interest and leadership in local activities range from the Boy Scouts and Junior Achievement to education and hospital work.

I am sorry to see Gwynne leave the utilities business as I am certain Penelec will miss his administrative responsiveness, integrity, and perseverance. However, I am relieved to know, as are the citizens of Greater Johnstown, that Gwynne Dodson will remain active in local civic affairs and continue to give all that one man can give to the well-being of his fellow citizen.

The article, which is taken from the Johnstown Tribune-Democrat, follows:

PENELEC CHIEF TO RETIRE

N. Gwynne Dodson of 305 Beaver Court, president and chief executive officer of Pennsylvania Electric Co., will retire at the end of August after a 49-year career in the utility business.

Mr. Dodson, widely recognized for his leadership in community, educational and energy industry affairs, has been serving since 1969 as chief executive of the Johnstown-based utility. Penelec has approximately 3,800 employes and serves 465,000 customers in approximately one-third of the Commonwealth and a small part of New York State.

Mr. Dodson was praised by William G. Kuhns, president of General Public Utilities Corp., Penelec's parent company as "an effective and respected business and civic leader who has distinguished himself through his integrity, his courage, his good sense and his service to his fellow man."

"Gwynne Dodson's dedication to the safety and the general well-being of his associates and his neighbors and his contributions to his company, his industry and the community have earned him continuing admiration and gratitude and a continuing role as a valued civic leader," Mr. Kuhns said.

BEGAN AT AGE 16

Mr. Dodson began his utility career in 1924, at age 16, as a messenger in Altoona with the former Penn Central Power & Light Co., which later became part of the Penelec system.

After serving in the transportation, meter and sales departments at Altoona, he was named a district manager in Hollidaysburg in 1939. He served as manager in Lewistown for five years and in 1945 became Eastern Division commercial manager in Altoona.

He was advanced to division sales manager in 1959 and was appointed Eastern Division manager in 1961. He moved to Penelec's corporate offices in Johnstown in 1962, when he was selected to organize and head a new companywide sales department as system sales manager. He was elected vice president in charge of sales, industrial development and public relations in January 1963.

In September 1965, he was elected to the board of directors and named vice president with responsibilities for personnel, public relations, purchasing, stores, transportation and related general services.

Mr. Dodson was elected to the Penelec board's executive committee in 1967. In 1969 he was elected president and chief executive.

He also is president and a director of the Nineveh Water Co. and the Waverly Electric Light & Power Co., both Penelec subsidiaries.

He is a vice president and a member of the board of directors of the Johnstown Savings Bank and is a member of the boards of Utilities Mutual Insurance Co., New York City; Glosser Bros., Inc., and of the Edison Electric Institute, principal national trade association of the electric utility industry.

He is a graduate of the public utilities executive course at the University of Michigan.

Mr. Dodson is a member of the executive committee of the Greater Johnstown Committee, Inc., the executive committee of the Advisory Board of the University of Pittsburgh at Johnstown, and the executive board of the Penn's Woods Council, Boy Scouts of America. He serves on the board of directors of the Cambria Somerset Chapter, American Red Cross, and the advisory board of Junior Achievement of Johnstown.

In recent years, he has held leadership roles in support of such activities as the Mercy Hospital of Johnstown, Greater Johnstown Chamber of Commerce and Cambria County Child Welfare Association, and in communitywide efforts to achieve sound industrial development and to beautify the hillsides in the Johnstown area.

HEW SAYS HMO'S WILL SAVE BILLIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas, (Mr. ROY) is recognized for 5 minutes.

Mr. ROY. Mr. Speaker, we hear much these days about the increase in the cost of living. We particularly hear about the increase of the costs of medical care.

Tomorrow we will consider a bill which promises to help restrain the increase of the costs of health care—the Health Maintenance Organization Act of 1973—H.R. 7974.

Last year the Department of Health, Education, and Welfare estimated the projected cost savings that would result from the development of HMO's. The study concluded that "we might expect to save between $4.5 billion and $18.1 billion as a direct result of the development program."

Mr. Speaker, because of the magnitude of the estimated savings, I include the HEW report in the RECORD at this point:

PROJECTED COST SAVINGS ATTRIBUTABLE TO THE PROPOSED HMO DEVELOPMENT PROGRAM

In response to the request for information on the potential ten-year savings from HMO development, we have developed sev-

eral estimates under different assumptions. As you realize, the key factors in estimating the savings are: (1) the growth rate of HMO enrollment; and (2) the relative difference in personal health care costs for persons served by HMOs as compared with those served by fee-for-service providers.

In order to estimate the potential savings which might be attributable to HMO development efforts, we have projected a program growth rate that would provide the HMO option to 90% of the population by 1980. This increased enrollment is incremental to the baseline enrollment in existing HMOs, which has been assumed to grow at the historical rate of 8 percent per year.

In addition, we have used three estimates for total HMO health care expenditures relative to traditional system expenditures:

Eighty percent—roughly the maximum potential savings which we believe might be achievable with an industry comprised of highly organized, efficient, experienced group-practice type HMOs, similar to the most efficient Kaiser-Permanente units or Group Health Cooperative of Puget Sound;

Eighty-five percent—roughly the potential savings reasonably achievable with an industry comprised of efficient, experienced, variable sponsor, group and individual practice HMOs, including non-hospital and hospital-based plans, physician groups, and foundation-type plans;

Ninety-five percent—roughly the potential savings achievable with an industry comprised of reasonably efficient, but less experienced, variable sponsor group and individual practice HMOs.

Based upon these assumptions and subject to the qualifications indicated below, we estimate that potential savings from the contemplated HMO development effort will fall within the following range:

NET 10-YEAR HMO SAVINGS

HMO costs relative to traditional provider costs	Savings (billions)	
	Federally supported HMO's	All HMO's
80 percent	$18.1	$27.4
85 percent	13.5	20.5
90 percent	9.0	13.7
95 percent	4.5	6.8

Depending upon how efficient these prospective HMOs become relative to traditional providers, we might expect to save between $4.5 billion and $18.1 billion as a direct result of the development program. Expansion in the enrollment of the presently existing HMOs could add as much as $9 billion to that savings. The probable range of savings, as herein defined, would fall in the $9 billion to $13 billion range.

The data and assumptions underlying these very rough projections are subject to many infirmities, some tending to produce an understatement of potential savings, and some tending to produce an overstatement. Major factors which might tend to produce an underestimate of potential savings include:

The methodology does not consider potential savings in facility investment derived from the lower utilization rate of inpatient facilities in HMOs.

The methodology does not consider potential savings in drug, long-term care, and administrative costs.

The methodology does not take into account the possible effect of increased demand, due to National Health Insurance, on gross national costs.

The methodology does not consider the effect of HMO development on the demand for health manpower, and consequent education costs, arising from the fact that prototype HMOs appear to utilize manpower more effectively.

Major factors which might tend to produce an overestimate of potential savings include:

The possibility of unduly optimistic expectations regarding the rate of HMO enrollment growth.

The validity of the fundamental assumption, yet to be demonstrated, that the effectiveness of prototype HMOs can be validly extrapolated to a large number of new organizations. (It is reasonable to expect that a significant period of learning and experience will elapse before new HMOs achieve the efficiency and general effectiveness of the established prototypes.)

The possible effectiveness, also yet to be demonstrated, of other measures to increase efficiency and contain costs in the traditional health care system, such as continuation of direct economic controls, and general application of a Professional Standards Review system.

The possibility, not taken into account in the estimates, that a number of rival HMOs in a competitive situation might make excessive investments in facilities which duplicate facilities in the traditional system and in other HMOs.

Moreover, the estimates depend upon population and health expenditure projections which are highly uncertain.

In addition, we should point out that these estimates compare HMOs with the traditional system but do not project any impact on the traditional system from HMO competition. We believe this is a highly unrealistic assumption; on the other hand we have no valid basis from which to project the effect of competition on the traditional system.

The effect of such competition, whatever it may be in quantitative terms, would tend to lower costs in the traditional system thereby, (1) decreasing the differential between HMO costs and traditional system costs, and (2) increasing the savings, perhaps markedly, between what the traditional system could be expected to produce in the absence of an HMO development effort and what may be expected in gross national health care costs under the influence of an effective HMO development effort.

We wish to reiterate that the very complex and difficult nature of the problem and the limited resources which we were able to apply combined to produce quite gross results. These should be taken as indicative of the general nature and direction of probable economic implications of the HMO development effort, but must be regarded as rough approximations only.

CORRECTION OF CLERICAL ERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, in submitting a bill, H.R. 10011, and a resolution House Resolution 528, both dealing with nerve gas, during the final hours before adjournment for the summer recess, due to a clerical error one of my colleagues was inadvertently included as cosponsor of the bill instead of being included as a cosponsor of the resolution. I am resubmitting both today with the corrections as follows:

LIST OF COSPONSORS OF RESOLUTION

Mr. Owens (for himself, Ms. Abzug, Mr. Ashley, Mr. Brown of California, Mrs. Chisholm, Mr. Conyers, Mr. Corman, Mr. de Lugo, Mr. Dellums, Mr. Edwards of California, Mr. Green of Pennsylvania, Mr. Hamilton, Mr. Helstoski, Mr. Koch, Mr. Kyros, Mr. Leggett, Mr. McDade, Mr. McKay, Mr. Mollohan, Mr. Riegle, Mr. Reuss, Mr. Rooney of Pennsylvania, Mr. Sarbanes, Mr. Thompson of New Jersey, Mr. Ullman and Ms. Schroeder) submitted the following resolution; which was referred to the Committee on Armed Services.

H. RES. —

Whereas the Geneva Protocol of 1925 banning use of chemical and biological warfare, authored by the United States, has never been ratified by the Senate because the question of whether herbicides and tear gas are covered by the protocol has never been resolved, and

Whereas the United States has conducted intensive and fruitful disarmament negotiations with other nations since 1969, and the United States position in negotiations to ban chemical weapons currently underway in Geneva is not clear because the United States has never ratified the Geneva Protocol of 1925, and—

Whereas adequate methods of inspection for possible violations in production of nerve gas not available in 1969, are being developed, and

Whereas the Department of Defense did not detoxify the four hundred and sixty-three thousand gallons of nerve gas by 1973 stored at the Rocky Mountain Arsenal in Denver as pledged in 1969, and the Secretary of the Army has recommended that large stockpiles of nerve gas stored there be moved to the Tooele Army Depot in Utah; therefore, be it

Resolved, That it is the sense of the House of Representatives that both the President and Congress should resolve the position of the United States on the status of herbicides and tear gas so that the Senate may move forward toward immediate ratification of the protocol, and be it

Resolved, That it is the sense of the House of Representatives that a public reevaluation of the necessity for stockpiling nerve gas is needed at this time, and be it further

Resolved, That it is the sense of the House of Representatives that the Department of Defense should detoxify that amount of nerve gas which was to have been destroyed by now, and keep Congress informed of progress in meeting its timetable.

LIST OF COSPONSORS OF BILL

Mr. Owens (for himself, Ms. Abzug, Mr. Ashley, Mr. Brown of California, Mrs. Chisholm, Mr. Conyers, Mr. de Lugo, Mr. Dellums, Mr. Edwards of California, Mr. Green of Pennsylvania, Mr. Hamilton, Mr. Helstoski, Mr. Koch, Mr. Kyros, Mr. Leggett, Mr. McDade, Mr. McKay, Mr. Mollohan, Mr. Riegle, Mr. Reuss, Mr. Rooney of Pennsylvania, Mr. Sarbanes, Mr. Thompson of New Jersey, and Mr. Ullman) introduced the following bill; which was referred to the Committee on Armed Services

H.R. —

A bill to insure that no public funds be used for the purpose of transporting chemical nerve agents to or from any military installation in the United States for storage or stockpiling purposes unless it is the sense of the Congress to do so

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a new section following section 409(b) of the Act of November 19, 1969 (50 U.S.C. 1512), is inserted as follows:

"None of the funds authorized to be appropriated by this Act or any Act may be obligated or expended hereafter for the purpose of transport of chemical nerve agents to or from any military installation in the United States for storage or stockpiling purposes unless the President has (a) made known to the Congress his position on the status of herbicides and tear gas under the

Geneva protocol of 1925; (b) provided Congress with a reevaluation of the necessity for the United States policy of stockpiling chemical nerve agents; and (c) certified to the Armed Services Committees of Congress that such transportation is necessary in the interest of national security and that its disposal by detoxification would be seriously detrimental to the chemical weapon deterrent capability of the United States.".

VOTE TO OVERRIDE VETO OF EMERGENCY MEDICAL SERVICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON. Mr. Speaker, in his 1972 State of the Union message the President called for an improved national emergency medical services capability. Partially in response to this call and also in recognition on its own of the Nation's emergency medical service problem, the Congress has responded with a modest but potentially effective first step. This action should demonstrate a joint commitment by the administration and the Congress to move into what has been a disasterous vaccum which has contributed to the death of thousands and the crippling and misery of additional thousands of Americans each year.

Unfortunately, the duration of the administration's commitment seems to have spent itself, battered by bureaucratic opposition. What had been articulated in the State of the Union message as a positive step in the direction of a real effort in emergency medical services died on the bureaucratic drawing boards of the Department of Health, Education, and Welfare as just another demonstration project.

This would be unfortunate if viewed only by itself. However, when seen in relationship to the drift of overall administration policy on public health it becomes frightening.

While the Congress has attempted to move forward in this field with passage of the Emergency Medical Services Act the administration's commitment has withered to a demonstration project. This, in turn, has been underscored by the President's veto of this legislation. The true picture of the administration's lack of commitment to and apparent apathy toward America's public health services is further revealed in the 43-percent proposed cutback in health manpower funds, its efforts to dry up medical and biomedical research funds, the fiscal assaults on the National Institutes of Health and the tragic tendency within this area to base decisions not on the Nation's needs or scientific and medical knowledge, but on bureaucratic political considerations.

In fact politics rather than national need has become so much a criteria for evaluation by the Federal health bureaucracy that former Surgeon General Jessee L. Steinfeld has said of the administration's health programs and policies:

> Programs are supported or discarded not in relation to their long-range health care value, but in relation to their immediate political public relations value.

An example of this tragic events was the administration's loudly proclaimed commitment to the battle against cancer. This led to complaints that other programs were being shortchanged in order to fund the cancer effort which was getting all the visibility. Now, recently, we learn from those in charge of the cancer program that they are not getting the money they were promised or need to do their job.

Thus, the direction of the administration in the field of public health is evident. There is no commitment to progress. Rather their is clear and evident apathy to public need.

What is the significance of this veto in view of this and what is at stake if we fail to override?

By voting to override we not only demonstrate to the administration, but to the people of America that the Congress is concerned and we are committed. Public health is not something to be manipulated by a bunch of political bureaucrats for what ever purpose it might serve them at any given time. Rather public health, whether it be emergency medical services, U.S. PHS hospitals or whatever must be a constant and enduring concern of the U.S. Government.

What is threatened here is much more than a local service program which is unborn or the closing of eight Public Health Service hospitals.

Where will the Nation recoup the 12,000 medical and paramedical personnel trained each year by these Public Service facilities?

What economies will be realized by contracting out the care of those patients now served when the cost of such an arrangement is three times what is now?

Where will the research work now carried on at these institutions be transferred and continued?

And what domino will fall after the demise of the Public Health Service facilities?

I suspect and fear that our Veterans' Administration hospitals and medical facilities are next slated to undergo the political budgetary knife which is wielded by the bureaucracy under the guise of economy and efficiency.

One might be tempted to reply that an expression of concern in this regard for the Veterans' Administration's hospitals is simply setting up a strawman. However, I would point out that the step from fiscally undermining Public Health Service hospitals and research operations is but a short distance from an assault on one of the largest Federal health operations, the Veterans' Administration. Nor have the bureaucrats been reluctant to attack the economic viability of the veteran. I recall that only this year an attempt was made to reduce harshly veterans compensation benefits.

The President, in his veto message, said this program was too expensive and charged it violates an area which historically has been within the jurisdiction of local government. These arguments will not meet the test of fact.

The spending of $185 million over 3 years to save an estimated 186,000 lives and prevent the crippling or countless others is no great investment in terms of dollars or the allevialtion of human suffering. This authorization by no measure can be considered a "budget buster."

As for local jurisdiction, this argument can be laid to rest by the simple fact that any effort made to date at the local level has been made in spite of not due to Federal absence. Personally I have not heard one word of objection to this legislation from any State or local official or jurisdiction within my congressional district.

A great deal more is at stake here than simply the override of a small authorization bill. What we must consider is whether or not we intend to abandon to administrative fiat the public health responsibilities of the Federal Government. To do so would be a tremendous disservice to the Nation today and to many generations yet unborn.

Mr. Speaker, I respectfully urge that this veto be overriden.

THE U.S.S.R. SHOULD BE DENIED HOST COUNTRY STATUS FOR THE 1980 OLYMPIC GAMES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I am sending a letter today, signed by 40 Members of Congress, to members of the International Olympic Committee protesting the designation of Moscow as the host city for the 1980 Olympics.

I am sure you were distressed to read the recent reports of the hostile treatment which the Government of the U.S.S.R. and its citizens accorded the Israeli athletes participating in the World University Games recently held in Moscow.

It was reported that Red Army soldiers "ripped apart the Israeli flag during a basketball game between Israel and Puerto Rico;" allegedly this was the third incident in which Soviet soldiers harassed and jeered the Israeli team.

During the Israeli-Cuba basketball game, Soviet officials refused admission to Soviet-Jewish citizens who held tickets for the game. The Israeli press was barred from covering and broadcasting the games. And, in the course of the game, the Soviet citizens assembled in the arena subjected the Soviet-Jewish spectators and world sportsmen to cries of "kikes, kikes."

For a number of months, the Soviet Union has been seeking designation as host country for the 1980 Olympic games. Moscow is presently the only city known to be planning a bid to host the games of the XXII Olympiad in 1980. The bids are due by March 31, 1974, and will be reviewed in late May 1974.

In retrospect, that the Olympics were held in Nazi Germany in Berlin in 1936 was regrettable. And, while the West German Government was not at fault, the memory of the Munich Olympic tragedy in 1972 is still with us. Let us not make another mistake. We cannot

ignore the fact that the Soviet Government itself is directly responsible for the incitement and encouragement of these anti-Semitic acts. And, this should make th U.S.S.R. ineligible to host the 1980 Olympics.

The following letter is being sent today to Lord Michael Killanin, president of the International Olympic Committee, and to Douglas Roby and Avery Brundage, the delegates from the IOC to the U.S. Olympic Committee:

We, the undersigned, strongly oppose the designation of the Soviet Union as host country for the 1980 Olympic Games. The recent treatment of Israeli athletes and Soviet Jews during the World University Games in Moscow does not qualify the Soviet Union for that honor. The Olympic Games are supposed to promote the spirit of sportsmanship, fair play and brotherhood. This cannot be done in a country that has unabashedly shown that it does not understand nor practice these concepts.

The recently concluded World University Games were to have served as a trial run for the 1980 Olympics. Indeed they have. They have demonstrated that Moscow is not the place for America's nor the world's athletes in 1980.

The letter was signed by Mr. ADDABBO, Mr. BADILLO, Mr. BIAGGI, Mr. BRASCO, Mr. BUCHANAN, Mr. CONLAN, Mr. COTTER, Mr. CRANE, Mr. DERWINSKI, Mr. DON EDWARDS, Mr. EILBERG, Mr. FORSYTHE, Mrs. GRASSO, Mr. GUNTER, Mr. HECHLER, Mrs. HECKLER, Mr. HOGAN, Mr. HOWARD, Mr. KOCH, Mr. LEHMAN, Mr. CLARENCE LONG, Mr. MCEWEN, Mr. MINISH, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. WILLIAM MOORHEAD, Mr. MORGAN MURPHY, Mr. PEPPER, Mr. PEYSER, Mr. PIKE, Mr. PODELL, Mr. RANGEL, Mr. RONCALLO, Mr. ROSENTHAL, Mr. ROUSSELOT, Mr. STEELE, Mr. WILLIAM STEIGER, Mr. TREEN, Mr. WALDIE, and Mr. WON PAT.

SAKHAROV ON JEWISH EMIGRATION FROM RUSSIA

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, at an unprecendented news conference on August 21, Dr. Andrei Sakharov, the father of the Soviet H–bomb, in effect supported "the demand for freedom for Soviet citizens to emigrate or simply to travel abroad, without having to have relatives in another country and regardless of nationality or profession." Dr. Sakharov told Western reporters that "such a demand coming from the Western partners in detente could in no way be considered an infringement on the sovereignty of the Soviet Union."

As a result of that news conference, as well as for other criticisms of Soviet repression, Dr. Sakharov has been subjected to a vicious Soviet propaganda campaign. There is speculation that he will be arrested, or expelled from the Soviet Academy of Sciences.

I agree with the courageous Dr. Sakharov that the demand for freedom of movement as embodied in the Universal Declaration of Human Rights in no way infringes upon the internal affairs of any country. That is why I, along with more than 250 of my colleagues from both parties, have pledged to support the Jackson-Mills-Vanik amendment which would prohibit "most-favored-nation" trade relations with any country which denied its citizens the right to live in the country of their choice.

In regrettable contrast to Dr. Sakharov's statements is a resolution adopted by the participants of the Fourth Summit of Nonalined Nations which specifically endorsed Soviet restrictions on Jewish emigration. Such a resolution is in flagrant contradiction of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, and signed by many of those nations now supporting Soviet repression. One of the most basic rights proclaimed in that great declaration is "the right—of everyone—to leave any country, including his own, and to return to his country."

The transcript of Dr. Sakharov's interview is a historic document and deserves careful study by all those interested in the question of East-West détente and the preservation of basic human freedoms. The text of the interview, as published in the New York Post of August 23, 1973, follows:

A TALK WITH SOVIET DISSIDENT ANDREI SAKHAROV

(By Edouard Dillon)

Moscow.—Prof. Andrei Sakharov, father of the Soviet H-bomb, held an unprecedented press conference on Tuesday with Western reporters in which he warned the West not to accept detente on Soviet terms. In the following exclusive interview conducted yesterday with Agehre France Presse Moscow bureau chief Edouard Dillon, Sakharov talks about the Soviet government's repressive treatment of dissidents such as himself and says the West ought to require the Soviet Union to allow its citizens to travel the world freely as a condition of detente.

Q: What attitude do you think the West should adopt at the conference on European security next month?

A: It goes without saying that we all hope for a reduction of tension and a relaxation of the danger of a thermonuclear war. That is incidentally what started the evolution of my own position since 1955, or to be more precise, the danger of nuclear tests, the armaments race . . .

I began to express open objections in 1958, in confidential letters to [then-premier Nikita] Khrushchev regarding nuclear tests. From 1961 on, my opposition became better thought out and I began to express it more forcefully in 1962.

In 1964, shortly before his fall, Khrushchev ordered documentation to be gathered compromising me following my speech on the genetics problem before the Academy of Sciences. That speech was considered an interference in politics.

On the occasion of the 23d party congress, I signed a collective letter against attempts to rehabilitate Stalin. In collaboration with a journalist I wrote an article, which was never published, on antimissile defense and the role of intellectuals in the modern world.

This led directly to my 1968 memorandum in which I gave precise expression to my thoughts on detente and on the hope of a convergence of the two systems—that is, the evolution of the socialist camp toward greater democracy and that of the Western camp toward socialism.

I still consider such a convergence the ideal solution. But to get down to realities, to what has been happening recently, in the last 18 months, reality is extremely complex and it is hard to define it or to evaluate it with precision.

We are watching a process of rapprochement which probably has very great perils hidden behind it. These dangers may show up in the way in which the authorities of our country may, and perhaps already can, exploit this rapprochement—not toward democratization but, on the contrary, in the direction of a greater rigidity.

The aim is apparently to strengthen economic and administrative structures. But regarding the problem of freedom of thought, the consequences that we see now are clearly negative.

Political reprisals have been getting worse in this country as far back as the beginning of 1972. Since January of that year, and especially in the Ukraine, political repression has been very hard. Several examples are known of absolutely draconian verdicts.

I would like to point to a new and very threatening trend—repeated arrests. In the '30s and '40s there was a term, "renewed,' used for people who as soon as they completed their prison sentences were arrested all over again, in fact for the same reasons as the first time, simply because the hardening of reprisals pushed Stalin to consider the completed prison term insufficient.

The case of dissident intellectual Andrei Amalrik caused a strong reaction around the world.

We are afraid that there are many more such cases of which we are unaware. The similarity of all this to the Stalin era makes us particularly sensitive to the phenomenon.

To come back to the question of whether or not all this is linked to the change in the international situation, I cannot get rid of the impression that the link exists, and I believe that it ought to show the Westerners that in accepting rapproachement they should be clearly aware that this rapprochement cannot be unconditional.

Otherwise, it will be just one more capitulation to our anti-democratic regime, an encouragement to its sins, and that will have particularly heavy and tragic consequences for the entire world situation.

It would lead to contaminating the whole world with the sickness that is devouring us.

The key demand that should be made from the start ought to concern ending the isolation of this country. This means the freedom to leave the country, the freedom to come back, the freedom to abandon or keep Soviet citizenship. It means the university recognized rights of man, which at present are not really applied in this country.

Our courts consider the attempt to leave the country an act of treason and punish it with 10 years in a camp. If the person has already been convicted of something, the sentence goes up to 15 years.

I believe that the demand for freedom for Soviet citizens to emigrate or simply to travel abroad, without having to have relatives in another country and regardless of nationality or profession, that such a demand coming from the Western partners in detente could in no way be considered an infringement on the sovereignty of the Soviet Union.

I believe that such a demand constitutes a fair and indispensable condition for rapproachment.

There can be no mutual confidence if one of the parties resembles an immense concentration camp. In the Soviet Union, prisoners call the camps they are locked up in "the small zone." The rest of the country is "the large zone."

I mentioned political repression. Perhaps it is harder for Westerners to do anything about that aspect of things. But I wouldn't want the problem ever to be forgotten, even for an instant. Don't let them stop trying.

Q. The objection that immediately occurs to a Westerner is that if we ask the Soviet Union for all that, the answer will be no. Must detente then be sacrificed?

A. So far the Soviet Union has not said no. It says: You are worrying about nothing, everything is fine in our country. That shows that the Soviet Union cannot give up the economic interconnection with the West. In this dialog the Soviet Union is the party with interests at stake.

And the Soviet Union bluffs a lot. I think it is very important for the Western countries to make the most of their possibilities in this situation, to use all the trumps in their hand.

But they should understand that they are dealing with an extremely shrewd party which has the advantage of a totalitarian regime. That is why the Western countries should put questions of principle on which they are all fundamentally agreed, above individual or group problems.

Q: What happened to that Soviet sailor who tried to leave a Soviet ship in American territorial waters to seek refuge on board an American ship?

A: The captain of the American ship agreed to give [the sailor] back to the Soviet ship, thinking that after all, they aren't savages, they won't hurt him. Then in plain sight of the Americans the sailor was beaten unconscious and his leg was broken.

Later he was sentenced to 10 years in a camp for high treason, even though he had not tried to escape from a war ship but from a merchant ship.

I wouldn't like to see our degree of civilization overestimated.

SANITATION IN THE FISH INDUSTRY

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today I am introducing legislation which would guarantee a vastly improved level of sanitation and wholesomeness in the U.S. fish industry, from the initial harvesting of fish by fishing boats through the retail sale of seafood products to the American consumer. Although the U.S. interstate meat and poultry processing industries are regulated by the Department of Agriculture, no such mandatory program exists for fish and seafood products. My bill would amend the Food, Drug and Cosmetic Act to give the Food and Drug Administration — FDA — the legislative authority to enforce mandatory hygienic regulation of the U.S. seafood industry.

Per capita consumption of fish in the United States is now 12.2 pounds annually; the incredible recent rises in the price of meats have forced many consumers to seek alternate protein sources, particularly fish, and, if they are to have a viable and safe choice in planning their marketing budgets, then effective surveillance over the fish industry is imperative. Fish is highly perishable, and it is contaminated easily if grown in impure waters or improperly handled, stored, or processed. Contaminated fish caused 400 cases of salmonella poisoning in the United States in 1966, and subsequent outbreaks of fish poisoning have received public attention. This legislation I am proposing is necessary to protect the health of the American consumer from the dangers presented by contaminated seafood.

The impetus for this bill stems from recent revelations of unhygienic and dangerous practices in the U.S. fish industry. In March 1973, the General Accounting Office issued a report to Congress entitled "Protecting the Consumer From Potentially Harmful Shellfish." This study of the national shellfish sanitation program—NSSP—a voluntary, tripartite cooperative program composed of Federal, State, and shellfish industry representatives, dealt with one important segment of the seafood industry and reported a severe potential health hazard to the American consumer. GAO found that 17 percent of all shellfish reaching consumers have excessively high bacterial counts and an additional number contain large amounts of metallic deposits. Even more alarming was the finding that 40 percent of the shellfish processing plants which were inspected maintained unacceptable levels of sanitation.

One of the NSSP's salient defects is its voluntary nature, and the GAO determined that the program is unable to supervise adequately the harvesting and processing of shellfish. My bill would convert this voluntary system into a mandatory program, toughening the sanitary requirements which harvesters and processors must observe, and increasing surveillance over the seafood industry.

The gravity of the total inadequacy of Federal health controls in the seafood industry is underscored by the fact that shellfish is the only fish product currently subject to any regulation and the existing shellfish program is largely ineffective.

The results of FDA inspection of conditions in the fish industry reveal widespread cases of inadequate processing, improper equipment, lack of essential machines, and poor quality control. Retail stores often sell refrozen and thawed fish as fresh fish. The FDA, under the Food, Drug and Cosmetic Act, possesses neither the legal authority to compel harvesters, processors, and retailers to meet adequate sanitation standards and maintain quality, temperature, and time controls on their vessels and in their establishments nor the administrative power to seize contaminated fish.

Fish consumers deserve the same safeguards that are presently afforded to purchasers of meat and poultry. About $175.3 million was appropriated in 1973 for mandatory meat and poultry inspection while only $3.3 million was appropriated for voluntary fish inspection. This imbalance is emphasized by the fact that the numbers of fish and meat processing plants in the United States are roughly equivalent.

My bill would improve the poor hygienic conditions currently prevalent in the fish industry by establishing a mandatory program of inspection and licensing.

The required Federal licensing of all fish harvesters, processors, and sellers would provide a method for determining the identities of businesses engaged in the fishing and fishery products industries and would consequently increase the efficiency and thoroughness of the inspection process. In order to obtain a license, the operator of a vessel or establishment would be required to submit to an intensive inspection by the FDA. Each license would be valid for 2 years and would be renewable following reinspection. Fish importers would also be subject to the licensing requirement, and they would be required to import fish and fishery products from countries which either permit American inspectors to examine their processing plants or which maintain a plan for the regulation of harvesting and processing equivalent to that established by this bill.

My proposal authorizes the FDA, with the assistance of fishery experts, to conduct a survey of the conditions in the fishing industry in order to institute appropriate standards for regulating fish. To insure the promulgation of effective standards, the FDA would subsequently consult with representatives of various Federal and State agencies, consumer and environmental organizations, and the commercial fishing industry.

The FDA standards would include criteria for determining the following: First, the metallic and coliform bacterial levels at which waters should be placed off limits to harvesters in order to prevent contaminated fish from entering the stream of commerce; second, employee education and training requirements which should be imposed in the fish industry; third, the types of equipment and warning devices considered necessary to maintain a proper level of sanitation and to guarantee adequate temperature, quality and time controls; fourth, the insurance needed to cover damages caused by the sale of contaminated fish; fifth, the type of grading system which can distinguish among various qualities of fish; sixth, labeling information to inform the consumer of the product's nature; seventh, the optimal type of fish container based on considerations of human health and the visibility of the product; and eighth, the length of time during which fresh and frozen fish may be safely stored, sold, and consumed.

Retail outlets are also included in the regulatory plan. In addition to the requirement of storing fish and fishery products at the proper temperature and in sanitary areas, retailers would be obliged to conspicuously label all thawed fish and to discard all frozen fish which has been thawed and refrozen. Refrozen fish can be dangerous to human health; thawed fish has a low protein content and is more readily perishable than fresh or frozen fish.

Since self-regulation by the fish industry has proved ineffective, mandatory surveillance over all phases of fish production constitutes an important element of this bill. FDA inspection of fishing vessels, processing establishments, and sales outlets would be authorized to ensure compliance with the applicable standards. Violation of the regulations could result in the denial or suspension of a license. Seizure of fish or fishery products which do not conform to the FDA regulations would be permitted after an opportunity for a hearing and judicial review. If a violation posed an imminent danger to the public health, the FDA would have the authority to

seize the suspected goods prior to a hearing and, if necessary, prohibit the operator from selling any of his products pending a hearing. To safeguard the interests of the owner, a confiscated product could be processed to prevent spoilage in the event that scientific analysis indicated that the fish was uncontaminated.

Inspectors would also be empowered to detain, return, or destroy any contaminated foreign fish or fishery product. This provision prevents any inequity between the standards for domestic and imported fish.

To aid the FDA in determining the frequency with which inspections should be conducted, this bill would require licensees to maintain records relating to the origin of the fish and the conditions under which it was processed and displayed. A licensee would also be required to report all known incidents of contamination and poor processing practices to the FDA to facilitate its discovery and detention of impure products.

A uniform system for receiving, investigating, and answering consumer complaints would be initiated.

New civil penalties of up to $10,000 for each violation of a regulation would be instituted. These penalties would authorize the levying of fines in instances in which sanctions presently are applied infrequently due to the reluctance of prosecutors to seek and judges to impose the existing criminal penalties.

Any State which initiates an inspection and enforcement program at least equal to that which would be established by this bill would be permitted to supervise such a plan, subject to annual review by the FDA. This system would guarantee maintenance of an effective surveillance program and enable Federal inspectors to conduct better inspections in those other States which do not initiate fishery plans.

Appropriations for research to promote better methods for harvesting, processing, and displaying fish and fishery products would be made available. Too often, fish becomes contaminated as a result of antiquated machinery. This bill would allow the FDA to join with individuals and agencies engaged in fishery studies to improve the quality of fish consumed by the American public.

Thus, this bill would provide the FDA with the legal power needed to protect American consumers from poorly processed fish and to furnish them with the necessary information to make a sound choice when purchasing, and I urge the Congress to give it full consideration at the earliest possible opportunity.

I include the following section-by-section analysis:

SECTION-BY-SECTION ANALYSIS

Section 1. Title.

Section 2. This section describes the Congressional findings which underlie the bill.

Section 3. This section amends Section 201 of the Federal Food, Drug and Cosmetic Act by adding definitions of terms used in this Act which relate to the fish industry.

Section 4. This section amends Section 301 of the Federal Food, Drug and Cosmetic Act prohibiting certain practices in the fish industry, and it amends Section 303 of that Act by increasing existing criminal financial penalties for violation of the Act and by adding new civil financial penalties for each such violation.

Section 5. This section amends Chapter IV of the Federal Food, Drug and Cosmetic Act as follows:

Section 410(a) authorizes the Secretary of H.E.W. to promulgate regulations based upon a study of the fishing industry within six months after the appropriation of necessary funds.

Section 410(b) sets forth the standards which would govern the operation of the fishing industry:

(1) fish and fishery products must not be adulterated;

(2) vessels and establishments must be sanitary;

(3) fish and fishery products must be sanitary;

(4) the sale of fish and fishery products beyond a specified expiration date and the sale of refrozen fish and fish products are prohibited;

(5) all fish and fishery products shall be graded based upon the quality of the product involved;

(6) packaged fish and fishery products must be placed in approved containers;

(7) warning devices must be attached to processing equipment to alert the owner of any malfunctioning of such equipment;

(8) employees must meet the educational and training requirements established by the Secretary;

(9) owners of fish establishments must purchase insurance against damages caused by the improper harvesting, processing, displaying or selling of fish and fishery products; and

(10) labels on fish and fishery products must include such consumer information as the date after which the fish or product may not be sold, the grade, name and composition of the fish or product, and identification of all thawed fish and products.

Section 410(c) requires the Secretary to consult with interested agencies and groups before he may amend sanitation standards, and it requires the owner of a fishing vessel or establishment to obtain his initial license within 6 months (or a year if the Secretary determines more time is needed) after the promulgation of the regulations and biannually thereafter.

Section 410(d) authorizes the Secretary to grant licenses 9 months after the appropriation of funds and sets forth the conditions which must be fulfilled by an applicant for a license before it can be issued or renewed by the Secretary:

(1) an applicant must show the Secretary, by permitting a thorough inspection of his vessel or establishment, that he is able to comply with the applicable standards of subsection (b);

(2) an applicant must furnish the Secretary with the name of his business, the locations of his establishments, and the docking places of his vessels;

(3) an applicant must provide the Secretary with a listing of all the fish and fishery products that he harvests, processes, displays or sells; and

(4) an applicant must inform the Secretary of the areas from which he harvests fish and the methods he uses to process, displays and sell fish and fishery products. Section 410(e) provides the applicant with the opportunity for a hearing and judicial review should his application for a license be denied.

Section 410(f) requires a licensee to:

(1) comply with sanitation standards and the requirements of his license;

(2) hold back from public sale any fish or fishery products which he believes was improperly harvested, processed, or displayed and to report such action to the Secretary; and

(3) use a label and official mark prescribed by the Secretary.

Section 410(g) provides that the Secretary may suspend a license after an opportunity for a hearing and judicial review, or without such an opportunity, subject to an injunctive proceeding, when the licensee refuses to permit an authorized inspection of his vessel or establishment or where a sanitary violation involves an undue risk of imminent harm to consumers. The Secretary may reinstate a license upon determining that the holder of a suspended license will comply with the applicable regulations.

Section 410(h) provides that a license may be altered, transferred or surrendered only upon agreement by the Secretary and 30 days' public notice.

Section 410(i) instructs the Secretary to coordinate his efforts with those of the State fish regulating agencies and to establish a coordinated F.D.A. program for gathering, investigating and responding to consumer complaints.

Section 410(j) requires the Secretary to authorize his inspectors to inspect the vessels and establishments of licensees and of applicants for licenses to determine whether they conform to prescribed standards.

Section 410 (k) empowers the Secretary to provide for the sampling of fish and fishery products during an inspection, and to segregate, subject to an opportunity for a hearing and judicial review, any product believed to be adulterated and to destroy any adulterated product which cannot be purified by reprocessing.

Section 410 (l) sets forth conditions, enforceable 6 months after the granting of licenses, for the importation of fish and fishery products:

(1) fish and fishery products may not be imported from a foreign establishment if they do not meet prescribed sanitary standards;

(2) fish and fishery products may be imported from establishments in those countries which maintain fish inspection programs at least equal to those established by this Act, provided that the foreign program is reviewed at least annually by the Secretary;

(3) all imported fish and fishery products which violate sanitary standards and regulations shall be destroyed or returned to the country of origin, unless the defect in the nonconforming article can be remedied;

(4) to facilitate enforcement of this Act, certain ports may be designated, based upon considerations of commercial need, for the importation of fish and fishery products;

(5) a person who purchases foreign fish or fishery products not in excess of 50 pounds for his own or for his household's consumption is not subject to the provisions of this section and a person who catches fish for sport may, at the Secretary's discretion, also be exempted from these regulations; and

(6) the Secretary is required to report annually to Congress on the administration and enforcement of the regulations concerning the importation of fish and fishery products.

Section 410 (m) establishes standards of adulteration for fish and fishery products:

(1) within 6 months after the appropriation of funds, if a State fails to designate areas of water restricted to harvesters based upon criteria promulgated by the Secretary and subject to his approval, the Secretary, within 9 months after the appropriation of funds, shall determine which waters are unsanitary;

(2) fish harvested from such impure waters are considered adulterated; and

(3) the States and the Secretary are empowered to redesignate areas of water to conform to approved sanitary standards.

Section 411(a) authorizes the Secretary to require licensees to maintain, and to permit inspectors to examine, records concerning the disposition of fish and fishery products under their control and the sanitary, quality, temperature and time counsels observed by them.

Section 411(b) authorizes the Secretary or his inspectors to detain for evaluation by the appropriate Federal or State authority, subject to an opportunity for a hearing and judicial review, any fish or fishery product that is adulterated or misbranded or that was improperly harvested, processed, displayed or sold.

Section 411(c) exempts, subject to termination by the Secretary, any individuals who harvest or process fish or fishery products for their own use or for members of their households' consumption.

Section 411(d) prohibits the sale of any fish or fishery product not intended for use as human food, unless it is so identified or has been denatured.

Section 412 provides an opportunity for a hearing and judicial review for any person adversely affected by a ruling of the Secretary.

Section 413 authorizes the Secretary to issue subpenas requiring the attendance and testimony of witnesses and the production of relevant documentary or other evidence to facilitate an investigation.

Section 421 empowers the Secretary to cooperate with a State agency to develop State fish and fishery product surveillance programs which are at least equal to those established by this Act, to develop a system of classification of shellfish growing areas, and to provide the State agency with advisory, technical, laboratory and financial assistance if the Secretary approves the State surveillance and enforcement plan.

Section 422(a) requires the Secretary to designate in the Federal Register, subject to the provisions of this Act, any State which did not develop or is not enforcing requirements at least equal to those of this Act, but permits the Secretary to withdraw such designation if the State develops and enforces an acceptable plan.

Section 422(b) empowers the Secretary to redesignate any State upon 30 days' notice to the Governor and publication in the Federal Register if that State no longer effectively enforces its regulations governing the fishing industry.

Section 422(c) mandates an annual F.D.A. review of the requirements and enforcement procedures of all State plans relating to the harvesting, processing, displaying and selling of fish and fishery products.

Section 422(d) requires the Secretary to inspect biannually, for the purpose of relicensing, vessels and establishments in any State conducting its own fish surveillance program.

Section 423 prohibits the States from imposing requirements different from those established by this Act.

Section 431 authorizes the Secretary to enter into cooperative agreements with other Federal agencies and State departments to facilitate the enforcement of this Act.

Section 432 authorizes the Secretary to conduct research, either directly or through grants, to improve sanitation practices and methods of surveillance in the fishing industry.

Section 433 authorizes the Secretary to appoint a national advisory committee, composed in part of representatives of consumer and environmental groups, to advise him on matters relating to Federal and State fish regulatory programs.

Section 6(a). This section amends Chapter VIII of the Federal Food, Drug and Cosmetic Act as follows:

Section 802(a) authorizes the Secretary to establish regulations for the inspection of foreign fish processing plants and to notify the Secretary of the Treasury if an inspector is barred from an establishment in a country not enforcing regulations equivalent to the provisions of this Act.

Section 802(b) requires the Secretary of the Treasury, upon receiving notice of noncooperation from the Secretary of H.E.W., to prohibit the importation of fish and fishery products from:

(1) a foreign country which neither has an approved fish surveillance program nor permits inspectors to inspect its fish processing establishments;

(2) a foreign establishment which does not permit inspection of its facilities; and

(3) a foreign establishment which fails to meet the required standards promulgated by the Secretary.

Section 802(c) authorizes the Secretary of the Treasury to enforce the provisions of section 802.

Section 802(d) provides that any fish or fishery products imported into the United States in violation of the regulations issued under this section shall be deemed in violation of the Tariff Act of 1930 and subject to forfeiture.

Section 6(b). This section's provisions shall become effective six months after the promulgation of standards under section 410(b), unless the Secretary finds that six more months is needed.

Section 7(a). This section amends Section 4 of the Fish and Wildlife Act of 1956 by increasing the amount of money available for fisheries loans to $35 million and making owners of establishments, vessels and gear eligible for such loans.

Section 7(b). This section amends Section 7(a) of the Fish and Widlife Act of 1956 by authorizing the National Marine Fisheries Service of the Department of Commerce to provide technical assistance to the commercial fishing industry to improve its standards of sanitation and its quality, temperature and time controls.

Section 8. This section conforms other parts of the present Food, Drug and Cosmetic Act, the Fair Packaging and Labeling Act, the Public Health Service Act and other Acts to this legislation and provides that the requirements of this Act shall not exempt any person from liability under State or common law.

Section 9. This section authorizes the appropriation of funds for the effectuation of the provisions of this Act.

PERSONAL EXPLANATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, yesterday I was absent on account of official business in my district and missed rollcalls No. 442 and No. 443, the first relating to the contempt citation against Gordon Liddy and the second relating to the little cigar bill. If I had been present I would have voted aye on rollcall vote 442 and on rollcall vote 443.

STALINISM AT HOME AND DÉTENTE ABROAD

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PODELL. Mr. Speaker, I have taken this floor many times to denounce the anti-Semitic policies of the Soviet Government and to urge freedom of emigration and freedom of religion for all. The harassment of Israeli athletes and Jewish spectactors at the World University games in Moscow dramatized the Kremlin's attitude. But anti-Semitism is only one facet of discrimination. Repression feeds upon itself and Russia today faces the threat of a new Stalinism which could terrify the people of the Communist world and destroy the growing détente between our countries.

The current attacks against Andrei Sakharov and Aleksandr Solizhenitsyn, if successful, could signal the end for all internal dissent. For years these two men have courageously spoken out for human rights; sheltered from government displeasure by their great prestige. Solzhenitsyn is Russia's greatest living writer and Sakharov her most prominent physicist. Now even their privileged positions are crumbling.

On August 21, Sakharov warned against a reconciliation between the great powers which came at the expense of basic reforms in the Soviet Union. A wave of denunciations by his peers in the Academy of Sciences and other leaders in education and the arts has followed. These denunciations are likely to provide the foundation for a political trial.

This organized campaign is reminiscent of Stalinist era tactics when the intellectual community was forced to join the ranks of the accusers or be themselves attacked in the government search for scapegoats. It is ironic that the weapon for stifling dissent within should be the policy of cooperation with the community of nations without.

While the economic and political benefits of detente have brought about a shift in Soviet foreign policy, the fear that contact with the West will create a deep change in the country's hopes, attitudes, and expectations has driven the leadership to a hard domestic line for maintaining the status quo.

For years Soviet rhetoric assured the world that they had no quarrel with the American people but only with the American Government. Present policy reverses this line. The Kremlin is eager to trade, bargain, and exchange information with the American Government but it demands protection from the American people and apparently from their own population as well.

The detente they envision is not one where the two peoples will be able to deal with each other openly and freely but through the intermediaries of their respective governments.

America must heed Mr. Sakharov's warning to his fellow countrymen. We must make it clear to the Soviet leadership that we will not accept a reconciliation born out of blood and silence. Unfortunately our own administration has been all too quick to adopt the methods of the Soviet Government by stressing secret negotiations and warning the American people and the Congress not to take independent action or raise public

outcries which might jeopardize trade and military arrangements. Rather we are told to trust in the good offices of the administration.

Those who continue to speak out in Russia face social ostracism, removal from their professions, and, ultimately, imprisonment. Their courage demands our support. A concerted outcry will bolster the dissidents and persuade the Soviet Government that they must deal with a concerned American public.

Reconciliation is necessary and long overdue but it must be meaningful and productive.

THE HIGH PRICE OF BAGELS

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PODELL. Mr. Speaker, the residents of New York's 13th Congressional District having been having a rough time trying to make ends meet under the hardships of President Nixon's economic policies. Rents are at an all-time high; meat has either disappeared from the stores or else carries a prohibitive price tag; and wages and pensions have failed to keep pace with the skyrocketing cost of living.

The most recent casualty of phase IV is a consumer item that is very popular in my district—the bagel. For those who may be unfamiliar with this product, a bagel is a hard, glazed doughnut-shaped roll made of flour and water. It is quite delicious, especially when spread with cream cheese and smoked salmon.

For the past few years, the price of bagels had stabilized at 8 to 10 cents apiece. Then Mr. Nixon arranged for the sale of one-quarter of America's wheat harvest to the Soviet Union, giving inside information to a few speculators who were thus able to make a fortune on the deal. Finally, and incredibly, the President removed all price controls on wheat. The result was a substantial increase in the cost of flour. As a result, my constituents are now paying 12 to 15 cents for a bagel, an increase of between 20 to 50 percent.

I would like to emphasize that the administration's wheat policy is the sole reason for these increases. Labor costs and bakers' profits have not increased. The blame lies squarely with President Nixon and Secretary of Agriculture Butz, who are philosophically opposed to any sort of economic controls, however desperately they are needed, and who have used these hard times for the economic advantage of their corporate friends. The noted economist John Kenneth Galbraith recently remarked that having these men administer price controls is analogous to putting the Paulist Fathers in charge of a birth control clinic.

When will the Nixon administration start thinking about the American consumer? The Russian wheat deal and the lifting of economic controls made headlines for Mr. Nixon and millions of dollars for his friends in the business community, but the average consumer in Brooklyn was on the losing end of the deal. What is needed is a complete redirection of our national priorities in favor of our own citizens. Much more is at stake than merely the price of bagels. The President's electoral mandate gave him the responsibility to represent the interests of all the people, not just the wealthy few. It is time for Mr. Nixon to wake up to the realities of the consumers' nightmare, and by his actions to justify the faith placed in him by so many Americans.

TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the Committee on Education and Labor has been receiving a great many inquiries from congressional offices concerning the recently announced allocations to local school districts under title I of the Elementary and Secondary Education Act. Since thousands of school districts have been notified by the U.S. Office of Education that they are due to suffer severe cutbacks in funding. I am taking the floor today to urge prompt action by the Congress to avert these cutbacks and the elimination of local education programs which would subsequently result.

The reason for these announced cutbacks is that Congress did not include a local educational agency "hold harmless" provision in either the House-passed Labor-HEW appropriations bill or in the continuing resolution for fiscal year 1974. That provision would have guaranteed every local school district the same level of funding under title I as it had last year.

We must include this local educational agency "hold harmless" in the appropriations bill and in the continuing resolution for fiscal year 1974 because of the inequitable distribution of funds resulting this year under the title I formula. That formula, which distributes funds to local school districts according to their numbers of poor children, has become extremely outmoded within the past few years.

The poor children counted for purposes of the title I formula are those from families with incomes under $2,000 a year according to the census and those from families with incomes over $2,000 a year from AFDC payments. The AFDC part of the formula was included in 1965, when ESEA was written, in order to serve as a minor undater, on an annual basis, of the more reliable and more uniform decennial census data. But that originally minor part of the formula has grown over the years to such an extent that it is now the major factor in the formula. In 1966, of the 5.5 million poor children counted under title I, only 600,000 were AFDC children. This year, fiscal 1974, of the 6.2 million title I children, more than 3,600,000 will be AFDC children. This development has skewered the title I formula toward the wealthier States since those States are the ones able to afford to make the high AFDC payments which qualify them to count these children under title I.

The Committee on Education and Labor and our companion Senate committee are now engaged in rewriting the title I formula to remove some of the inequities which have resulted over the years. But the committees and the Congress cannot possibly finish work on this updating until November or December at the earliest. Therefore, the appropriations bill and the continuing resolution for fiscal 1974 must provide a local educational agency hold harmless provision to safeguard local programs for this school year.

The House-passed Labor-HEW appropriations bill included a State hold harmless provision; but, because the title I formula distributes funds directly to the local school district level, a State hold harmless simply is not adequate to safeguard local programs. In fact, a State hold harmless provision without a local educational agency hold harmless results in radical shifts in funding within States so that the wealthier areas of the States gain funds at the expense of the poorer areas. This again is due to the fact that even within States it is the wealthier areas which are able to afford higher AFDC payments and therefore which gain under the present title I formula.

The Senate Labor-HEW Appropriations Subcommittee began work this week on the Labor-HEW appropriations bill. It is my hope that the members of that committee will recognize the need for a local educational agency hold harmless and include it in their version of the appropriations bill.

I am including for the record a copy of the statement which I presented to the Senate Appropriations Subcommittee on July 24. This statement explains in detail the need for a local educational agency hold harmless provision. I am also including for the record several letters which I have received from local school administrators describing the problems facing their school districts if no local educational agency hold harmless provision is included in the appropriations bill.

The articles follow:

STATEMENT OF CONGRESSMAN CARL D. PERKINS, CHAIRMAN, HOUSE EDUCATION AND LABOR COMMITTEE, BEFORE THE SENATE LABOR-HEW APPROPRIATIONS SUBCOMMITTEE

JULY 24, 1973.

Mr. Chairman, I appreciate very much being given the opportunity to appear today before this Subcommittee which has been so instrumental in expanding the educational opportunities available to the American people.

I appear today in strong support of the education appropriation bill passed by the House of Representatives on June 26th. In light of the President's proposal for a drastic reduction in funding, I believe that the House Appropriations Committee did an excellent job in attempting to maintain the forward thrust of Federal educational programs.

The statement which I submitted to the

House Labor-HEW Appropriations Subcommittee when I appeared before it this May 14th supports the action subsequently taken by that committee and by the House. I, therefore, ask that it be made a part of the record of these proceedings.

My major purpose in appearing before you today is to emphasize the importance of the State "hold-harmless" provision for Title I of the Elementary and Secondary Education Act as it appears in the House bill, and to urge the addition of a local educational agency "hold-harmless" provision.

I make this request with the greatest urgency. Unless a local educational agency "hold-harmless" provision is incorporated in the appropriations bill, a distorted distribution of funds will occur within each State *even though* the State is receiving the same amount of Title I funds. The school districts suffering the greatest hardship will be those least able to cope with it—the poorest school districts in the country.

The basic cause of this problem is the imbalance in the Title I formula which has resulted between the statistics used from the census and those used from the AFDC program.

Each local educational agency in the country receives an allocation under Title I based on the number of poor children within its school district. These poor children were defined in 1965—when ESEA was enacted—as those from families with incomes under $2,000 a year according to the census and those from families with incomes over $2,000 from AFDC payments.

A family income of $2,000 was an accurate indicator of poverty in 1965. But I am sure that nobody would argue that it is an accurate definition of poverty today.

Under the law, however, we are required to use that definition in determining this year's allocations. And we are also required to count the children in each school district from families with incomes over $2,000 from AFDC payments.

The AFDC part of the formula was included in the original Act to serve as an updater on a minor basis for the 1960 census data. The decennial census data, because of its national uniformity and accuracy, was meant to be the basic means for the distribution of funds.

The AFDC part of the formula, however, has created a distortion in the program. In 1965 there were only 600,000 of the 5.5 million Title I children who were counted from AFDC. By 1973 the AFDC program had grown so tremendously that there were 3.2 million AFDC children counted. During this present school year AFDC children will probably total 3.6 million and will far exceed the number of children counted under the new census. (See table.)

This growth in the numbers of AFDC children counted under Title I has occurred in the wealthier areas of the country. According to testimony presented to the House Education and Labor Committee by the Department of Health, Education, and Welfare, AFDC is not an accurate indicator of rural poverty or of poverty existing among various ethnic groups, such as the Spanish-speaking.

From my personal experience I know that there are just as many poor children in my area of the country as there were in 1960 or 1965. But AFDC data does not show that poverty, and the $2,000 poverty definition used for the census data is so out-of-date that it too does not accurately depict the extent of that poverty.

The House Committee on Education and Labor is now in the process of updating the definition of poverty contained in the 1965 law. I am hopeful that the Committee and the Congress will accept a revision which will be in accord with our original intention in enacting ESEA. But we need a local educational agency "hold-harmless" provision for this year's appropriation so that no local educational agency will lose funds while we are in the process of updating that law.

If Congress enacts a State "hold-harmless" provision only, such as the one contained in the House bill, it will not be adequate to save local school districts from drastic and unwarranted cutbacks. With your permission, I will use my own State of Kentucky as an example.

The House bill provides that Kentucky is to receive the same amount in Title I funds for grants to local educational agencies as it received during fiscal year 1972. This provision was included because Kentucky this year has at least the same, and maybe a greater, percentage of poverty as it had in 1965 when we wrote the Act. Therefore, Kentucky should be held at the same level of funding as it had last year until we can update the formula.

The following facts support this conclusion. Kentucky had 193,559 children from families with incomes under $2,000 a year according to the 1960 census, but only 68,780 according to the 1970 census, a decrease of 64.46 percent. However, if we use the official definition of poverty adopted by the Federal Government in 1969, Kentucky now has 208,462 poor children, an increase of 7.69 percent over the 1960 census.

Due to the peculiar nature of the Title I formula, however, a State "hold-harmless" provision, giving Kentucky the same amount it received last year, will not be adequate to guarantee continued support for local programs. The Title I formula is unique among Federal-State education programs in that it distributes the funds down to the county level. The result of this type of formula will be that even though Kentucky stands to receive this year the same amount of funds under the House bill as it received in 1972, there will be tremendous fluctuations within the State.

These fluctuations will occur because census data will be much less important and AFDC data will be much more important in determining allocations to local educational agencies. Since there has been this statistical decrease of 64.46 percent in the children from families under $2,000 according to the census, and since the total number of AFDC children will be the same or greater within Kentucky, the degree to which a school district in Kentucky received Title I funds because of AFDC children becomes tremendously important in determining its new allocation.

Generally the poorer, rural areas did not, and do not, have many AFDC children while the urban areas account for many such children. Therefore, there will be a tremendous cutback in funds in the rural areas and a huge increase in urban areas.

Perry County, for example, received $712,952 last year, but it stands to receive only $546,797 this year even though the House bill contains a State "hold-harmless" provision. Perry County had 4.669 children from families under $2,000 according to the 1960 census, but it had only 1,072 such children under the 1970 census. But if Title I used the official Federal definition of poverty, Perry would be credited with 5,250 children, an actual increase over the 1960 census.

It does not make much sense to me to cut Perry County's Title I funds by 25 percent for one year while we are working on updating the Title I formula.

These tremendous fluctuations in funding can be remedied for this year by providing that no local educational agency will receive less than it received during fiscal year 1973. This one-year provision will give the authorizing committees and the Congress the time needed to revise the basic law. Therefore, I urge this Subcommittee to expand the State "hold-harmless" concept contained in the House bill to its logical conclusion by guaranteeing each local educational agency the same amount of money it received last year.

I am urging a 1972 State "hold-harmless" and a 1973 local educational agency "hold-harmless" because I believe that it is a reasonable compromise. The State provision will keep the poorer States at the level of funding they received in 1972 when the appropriation for Title I was $1.585 million, while spreading the additional $200 million contained in this year's House-passed appropriation bill among the wealthier States.

The 1973 local educational agency "hold-harmless" will guarantee the poorer areas of many States the same level of funding they received last year while spreading any increased funds among the relatively better-off areas.

I would like Dr. Lyman Ginger, the State Superintendent of Instruction in Kentucky, to explain the effects of this proposal in my State. I believe that the experience there would be typical of many States.

The specific language which I urge the Subcommittee to insert in the appropriation bill reads as follows:

"Provided further, that the grant to any local educational agency under title I, part A shall not be less than the grant made to such agency for fiscal year 1973."

Turning to the area of postsecondary education, Mr. Chairman, I wish to again applaud the House Appropriations Committee for having put together a measure which more realistically reflects the needs in postsecondary education than does the Administration's request.

I do feel, however, that there are certain selected areas where still further corrections are needed. Of greatest importance is the provision of adequate funding for the basic opportunity grant program. I wish to applaud the Administration's request for full funding of BOGs. I am convinced that it is this program which holds the greatest promise of meeting the often-stated Congressional goal that no student be denied a higher educational opportunity because of financial barriers.

Properly funded and efficiently administered, the basic grant program will provide all needy students with assistance in a meaningful, equitable and timely manner. It is my hope that the appropriations measure approved here in the Senate will be at the level of the Administration's request for $959,000,000. If this is not possible, I strongly urge that funding be much closer to the Administration's request than the $440,500,000 proposed in the House-passed bill.

Finally, Mr. Chairman, neither the Administration request nor the House-passed bill would provide funds for the new institutional aid program, the career and occupational education program, and the community college program. I will not discuss this matter in detail, but I simply want to reaffirm my recommendation to the House Appropriations Committee which stressed the importance of providing initial funding for these three programs.

Thank you very much for allowing me to appear today.

INCREASE IN AFDC CHILDREN COUNTED UNDER TITLE

States	AFDC children fiscal year 1966		AFDC children fiscal year 1973		Increase from fiscal year 1966 to fiscal year 1973
	Actual number	Percentage of total [1]	Actual number	Percentage of total [1]	
Alabama	0	0	1,074	0.4	1,074
Alaska	795	14.9	4,723	46.6	3,928
Arizona	5,603	12.6	17,624	30.3	12,021
Arkansas	0	0	0	0	0
California	102,073	33.1	560,993	70.4	458,920
Colorado	7,303	17.9	37,295	51.0	29,992
Connecticut	7,595	26.8	47,116	65.9	39,521
Delaware	0	0	5,711	40.2	5,711
Florida	0	0	25,472	14.8	25,472
Georgia	0	0	45,995	15.9	45,995
Hawaii	2,413	21.5	13,902	60.2	11,489
Idaho	2,403	16.4	6,570	34.0	4,167
Illinois	82,499	35.9	270,392	62.9	187,893
Indiana	3,515	4.4	51,115	38.1	47,600
Iowa	9,265	11.4	29,074	28.1	19,809
Kansas	5,400	12.0	23,011	35.2	17,611
Kentucky	0	0	32,334	14.1	32,334
Louisiana	192	.1	18,778	8.4	18,586
Maine	2,725	12.9	19,730	49.1	17,005
Maryland	9,420	14.9	59,407	49.2	49,987
Massachusetts	16,817	26.3	118,674	69.4	101,857
Michigan	21,029	14.4	194,106	59.4	173,077
Minnesota	11,678	13.1	45,154	35.4	33,476
Mississippi	0	0	0	0	0
Missouri	11,297	8.3	37,152	22.3	25,855
Montana	1,477	9.6	5,575	27.4	4,098
Nebraska	664	1.9	15,821	30.8	14,911
Nevada	675	17.0	2,427	38.4	1,752
New Hampshire	1,052	15.1	6,698	47.4	5,646
New Jersey	25,496	29.9	170,877	71.4	145,381
New Mexico	4,315	10.3	13,975	26.5	9,660
New York	99,890	33.3	565,968	69.7	466,078
North Carolina	3,515	1.1	39,056	10.6	35,541
North Dakota	1,775	7.1	5,150	17.6	3,375
Ohio	25,472	14.4	137,774	45.7	112,302
Oklahoma	11,168	11.6	30,372	25.6	19,204
Oregon	6,288	20.8	26,326	48.7	20,038
Pennsylvania	60,258	25.6	246,945	56.3	186,687
Rhode Island	4,007	24.9	18,308	58.3	14,301
South Carolina	0	0	4,561	2.2	4,561
South Dakota	1,528	4.8	6,537	16.8	5,009
Tennessee	0	0	0	0	0
Texas	0	0	79,326	16.4	79,326
Utah	2,088	15.3	15,058	54.2	12,970
Vermont	580	7.5	6,325	42.8	5,745
Virginia	3,088	1.8	50,142	22.3	47,054
Washington	9,842	23.0	53,427	57.9	43,585
West Virginia	82	.1	14,553	11.8	14,471
Wisconsin	10,444	15.2	46,691	41.7	36,247
Wyoming	661	10.9	2,213	28.0	1,552
District of Columbia	5,900	28.4	39,640	71.4	33,740
Total	582,288	10.5	3,269,192	38.6	2,686,904

[1] Percentage of total title I children within the State which are in families with an income above $2,000 from AFDC.

MENIFEE COUNTY SCHOOLS,
Frenchburg, Ky., July 19, 1973.

Hon. CARL PERKINS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PERKINS: I am writing you to notify you of the decrease in Title I funds in the Menifee County Schools for 1974.

In the 1960 Census the Menifee County children in the low income group was 696. In the 1970 Census according to figures received by the State Department of Education we only had 68 children in the low income group. The total eligible children in Title I in 1973 was 786. The total eligible children for Title I now is 118. This decreases our funds from $110,181.00 to $41,202.00 for the 1974 year.

I believe there has been a mistake because the economic status of Menifee County has not improved enough to cause such a decrease of children in the low income group. Please investigate to see if there is not a mistake in the number of children in the low income group in Menifee County.

We have had some economic improvement here but definitely not much.

I have been working with these children for the past 25 years and I know each of these children individually and their financial condition. Income in this county is low.

We have not had a decrease in school population.

Will you please check the 1960 Census for low income children and the 1970 Census for low income children. I don't believe it went from 696 to 68 as sent to State Department of Education, Frankfort, Kentucky, by Health, Education and Welfare of Washington.

Sincerely,

GEORGE ALICE MOTLEY,
Superintendent.

GREATER LATROBE
SCHOOL DISTRICT,
Latrobe, Pa., August 7, 1973.

Hon. CARL D. PERKINS,
Congress of the United States, House of Representatives, Chairman of the Committee on Education and Labor, Rayburn House Office Building, Washington, D.C.

HON. CARL D. PERKINS: Funds for Title I of the Elementary and Secondary Education Act have recently been appropriated for the Congress on the basis of a "hold-harmless" provision which guarantees that every state will receive as much funding in fiscal 1974 as it did in fiscal 1973. In fact, many states are receiving somewhat more in fiscal 1974 than they did in fiscal 1973. The problem which presents itself to those of us at the school district and county level is one which is closely associated with the 1970 census. As of fiscal 1973–74, the 1970 census was used in determining the number of eligible Title I students in a school district. Using this figure a county such as Westmoreland County in Pennsylvania receives a severe slash in the size of its entitlement and, in particular, the Greater Latrobe School District suffers with many of its neighbors to the extent of a ⅓ to ½ cut in entitlement.

Such severe decreases are serious enough in terms of the cost in human resources they become particularly serious when we recognize the fact that the school districts were given no notice of such decreases in funding. As I am sure everyone knows, a school district, much as any other governmental body must prepare its budget for the fiscal year in accordance with the provisions in the Pennsylvania School Code. With nothing more to go on than rumor we had to proceed with the idea in mind that the program would be funded. In fact, we received verbal reassurance that Title I funds would be equal to or slightly more than the preceding year. Many newsletters out of Washington to which we subscribed also testified to this effect. Thus, we went ahead with at least tentative plans to receive funds which would be equal to our preceding year's entitlement.

It is with a great deal of alarm that we view the knowledge that we were made aware of on Thursday, July 26, 1973. This news conveyed to us the rather startling knowledge that almost all school districts in Westmoreland County receive rather severe cuts based upon the 1970 census, and many school districts would receive between 40 and 50 per cent cuts in their Title I allocations.

Upon receipt of this news I immediately called the Bureau of Statistics in Harrisburg, and the decreased number of Title I children was verified by that office. The case in point, our school district, received a total decrease in eligible Title I children of 303 youngsters. This is broken down in the following manner: 1972–73 Title I students included 445 students from families earning less than $2,000, 259 students from families on AFDC, and 7 students from foster homes for a total of 711; 1973–74 figures were altered drastically in that we received credit for only 152 students from families earning less than $2,000, and while we have no definite knowledge about the other categories, Westmoreland County supposedly lost 325 students from AFDC roles. This does not seem consistent with the economic picture which has existed in Westmoreland County over the past several years, particularly in view of significant recessions in such as the tool steel industry. Many sources have reported widespread concern about the dates reflected in the 1970 census with it generally being considered very much less than reliable. In addition, it is very doubtful that the present poverty level of below $2,000 is anywhere near realistic. Many are saying there will be a change to $4,000 which would be very much desired.

Of greatest concern to all those who care about the needs of economically, educationally, and culturally deprived students is the fact there is not always a high correlation between the economically deprived and the culturally and educationally deprived. With a decrease, for example, of 303 eligible students in a given school district such as ours it becomes apparent that the district would loose in the neighborhood of $30,000 of Title I monies. Not only would such monies be lost, but they would be lost after the budget was built which would certainly create a situation in which those monies were being depended upon to provide services to youngsters.

Local school districts, of course, are encountering great difficulty in raising funds for a truly significant educational effort. They are becoming increasingly dependent upon such monies as Title I for the vital kinds of individualized programs which will help the target youngsters. It has been increasingly difficult to attempt to plan for the needs of these students when funding is consistently in doubt and always follows the closing of the local budget. Such uncertainties make it difficult to plan to use such

monies well and, in particular, it puts the school district in the position of contracting to hire certain kinds of specialists for very vital positions and then being in doubt as to whether or not they are going to be able to afford to pay for them. It is very well to say the districts should fund all of these programs, but as is always the case local effort can raise only so much money and must consistently depend upon other funding sources for programs to meet highly specialized needs of deprived students.

It is my feeling that if the states can benefit from a "hold-harmless" provision assuring them as much funding in fiscal 73–74 as they received in fiscal 72–73, school districts who are working directly with the affected children should be able to benefit by the same type of provision. Many of us are very doubtful about the validity of the 1970 census figures, and we believe that it is a very dangerous and almost criminal act to decrease the entitlement in such a severe and arbitrary manner with no previous notice at all.

Many excellent programs have been conducted to meet the specialized needs of these youngsters including reading, language arts, learning disabilities, elementary counseling, etc. If we may count upon consistent funding for these programs, they may be continued and in my opinion will bring many benefits to children who otherwise may go through life without remediation or correction for these problems. I hope and trust that we, at the school district level and particularly the children, may count upon your support in this matter. We believe that it is fair to ask that no decrease be suffered by the school district and by the county, but more particularly, if such things do occur we believe that a fair warning should be delivered which would make it possible for school districts to plan to fund these programs locally or to phase part of the specialized staff for such programs into regular educational assignments.

Should there be anything further that could be done at this level, I would appreciate receiving notice from your office. May I extend my sincere appreciation for the previous interest shown by you and your staff in matters educational.

Sincerely,

CHARLES U. FINDLEY,
Assistant to the Superintendent.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCEWEN (at the request of Mr. GERALD R. FORD), for the week of September 10, 1973, on account of illness in the family.

Mrs. BURKE of California (at the request of Mr. HAWKINS), from September 10, 1973, to September 14, inclusive, on account of the sickness of a member of her family.

Mr. MCDADE (at the request of Mr. GERALD R. FORD), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LANDGREBE) and to revise and extend their remarks and include extraneous material:)

Mr. STEIGER of Arizona, for 15 minutes, September 13.

Mr. MCKINNEY, for 10 minutes, September 11.

Mr. SAYLOR, for 10 minutes, today.

(The following Members (at the request of Mr. OWENS to revise and extend their remarks and include extraneous material:)

Mr. ROY, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. ABZUG, for 5 minutes, today.

Mr. FULTON, for 10 minutes, today.

Mr. LEGGETT, for 60 minutes, September 12, 1973.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GROSS to insert his remarks during the debate today on the conference report accompanying the bill H.R. 7645.

(The following Members (at the request of Mr. LANDGREBE) and to include extraneous material:)

Mr. ZWACH in six instances.

Mr. STEIGER of Arizona.

Mr. WHALEN.

Mrs. HOLT in two instances.

Mr. DERWINSKI in two instances.

Mr. NELSEN.

Mr. MARTIN of North Carolina.

Mr. HARVEY.

Mr. WYMAN in two instances.

Mr. HUBER in two instances.

Mr. ANDERSON of Illinois in two instances.

Mr. BROYHILL of Virginia.

Mr. HOSMER.

Mr. FROEHLICH.

Mr. BURKE of Florida.

Mr. YOUNG of Florida in five instances.

Mr. GILMAN.

Mr. BUCHANAN.

Mr. SMITH of New York.

Mr. CONABLE.

Mr. FRENZEL in six instances.

Mr. HUNT in two instances.

Mr. RONCALLO of New York.

Mr. KEATING in three instances.

Mr. SHRIVER.

Mr. HUDNUT.

Mr. PARRIS in five instances.

Mr. FRELINGHUYSEN.

Mr. COLLINS of Texas.

(The following Members (at the request of Mr. OWENS), and to include extraneous matter:)

Mr. RIEGLE.

Mr. O'NEILL.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. ASPIN in 10 instances.

Mr. MOLLOHAN in two instances.

Mr. MATSUNAGA in 10 instances.

Mr. ROE in three instances.

Mr. HARRINGTON in five instances.

Mrs. HANSEN of Washington in 10 instances.

Mr. PATTEN.

Mr. BEVILL.

Mr. WALDIE.

Mr. BENNETT.

Mr. KOCH in two instances.

Mr. ANDERSON of California in three instances.

Mr. BADILLO in two instances.

Mr. EVINS of Tennessee.

Mr. PREYER.

Mr. FULTON in five instances.

Mrs. MINK.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1165. An act to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cirgarette Smoking Act of 1969 to define the term "little cigar", and for other purposes; and

S. 1672. An act to amend the Small Business Act.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 10, 1973 present to the President, for his approval, a bill of the House of the following title:

H.R. 6912. An act to amend the Par Value Modification Act, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 48 minutes p.m.) the House adjourned until tomorrow, Wednesday, September 12, 1973, 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:

1335. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting notice of the proposed transfer of the destroyer ex-U.S.S. *Joseph P. Kennedy, Jr.* (DD–850) to the Massachusetts Memorial Committee, Fall River, Mass., pursuant to 10 U.S.C. 7308; to the Committee on Armed Services.

1336. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting the texts of International Labor Organization Convention No. 136 and Recommendation No. 144, concerning Protection against Hazards of Poisoning Arising from Benzene (H. Doc. No. 93–150); to the Committee on Foreign Affairs and ordered to be printed.

1337. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 189, *Red Lake Band, et al., Plaintiffs,* v. *The United States of America, Defendant,* pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

1338. A letter from the Chairman, Indian Claims Commission; transmitting the final determination of the Commission in docket No. 300, *the Stockbridge Munsee Community, the Stockbridge Tribe of Indians and the Munsee Tribe of Indians by Arvid E. Miller and Fred L. Robinson, Plaintiffs,* v. *The United States of America, Defendant,* pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

1339. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Federal Food, Drug, and Cosmetic Act to provide increased protection for consumers from shipment of unfit and adulterated food; to the

Committee on Interstate and Foreign Commerce.

1340. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish in the Department of Health, Education, and Welfare the positions of Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary of Health, Education, and Welfare in lieu of the Under Secretary and the Assistant Secretary for Administration; to the Committee on Post Office and Civil Service.

1341. A letter from the Administrator of General Services, transmitting a prospectus revising the previously approved prospectus for alterations to the Military Personnel Records Center, St. Louis, Mo., pursuant to the Public Buildings Act of 1959, as amended; to the Committee on Public Works.

1342. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a report on the international transfer of conventional arms, pursuant to section 302 of Public Law 92–352; to the Committee on Foreign Affairs.

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. PERKINS: Committee on Education and Labor. H.R. 9639. A bill to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs; with amendment (Rept. No. 93–458). Referred to the Committee on the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 9256. A bill to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes. (Rept. No. 93–459). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 9107. A bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for the purposes. (Rept. No. 93–460). Referred to the Committee on the Whole House on the State of the Union.

Mr. EILBERG: Committee on the Judiciary. H.R. 981. A bill to amend the Immigration and Nationality Act, and for other purposes; with amendment (Rept. No. 93–461). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 7555. A bill to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse (Rep. No. 93–462). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 9281. A bill to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes (Rep. No. 93–463). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7699. A bill to provide for the filling of vacancies in the Legislature of the Virgin Islands (Rep. No. 93–464). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7730. A bill to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip; with amendment (Rep. No. 93–465). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 9682. A bill to reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia subject to acceptance by a majority of the registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes (Rep. No. 93–482). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9553. A bill to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games with amendment (Rept. No. 93–483). Referred to the Committee of the Whole House on the State of the Union.

Mr. MATSUNAGA: Committee on Rules. House Resolution 539. Resolution providing for the consideration of H.R. 8789. A bill to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars, half-dollars, and quarters, and for other purposes. (Rept. No. 93–466). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 540. Resolution providing for the consideration of H.R. 6576. A bill to authorize the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments; with amendment (Rept. No. 93–467). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 541. Resolution providing for the consideration of H.R. 7974. A bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes; with amendment (Rept. No. 93–468). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 4507. A bill to provide for the striking of medals in commemoration of Jim Thorpe; with amendment (Rept. 93–469). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 4738. A bill to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado; with amendment (Rept. 93–470). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 5760. A bill to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974; with amendment (Rept. No. 93–471). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. H.R. 8709. A bill to authorize the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco (Rept. No. 93–472). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committee were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EILBERG: Committee on the Judiciary. S. 84. An act for the relief of Mrs. Naoyo Campbell (Rept. No. 93–473). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 89. An act for the relief of Kuay Ten Chang (Kuay Hong Chang) (Rept. No. 93–474). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 155. An act for the relief of Rosita E. Hodas (Rept. No. 93–475). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 278. An act for the relief of Manuela C. Bonito; with amendment (Rept. No. 93–476). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 1342. A bill for the relief of Rita Swann; with amendment (Rept. No. 93–477) Referred to the Committee of the Whole House.

Mr. KEATING: Committee on the Judiciary. H.R. 1463. A bill for the relief of Emilia Majowicz; with amendment (Rept. No. 93–478). Referred to the Committee of the Whole House.

Mr. RAILSBACK: Committee on the Judiciary. H.R. 1955. A bill for the relief of Rosa Ines Toapanta; with amendment (Rept. No 93–479). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 2533. A bill for the relief of Raphael Gidharry; with amendment (Rept. No. 93–480). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 6828. A bill for the relief of Edith E. Carrera (Rept. No. 93–481). 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 Ms. ABZUG (for herself and Mr. MURPHY of New York):

H.R. 10142. A bill to prohibit discrimination on the basis of sex or marital status in the granting of credit; to the Committee on Banking and Currency.

By Mr. ANDERSON of California:

H.R. 10143. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings, and for other purposes; to the Committee on Ways and Means.

H.R. 10144. A bill to provide for a 7-percent increase in social security benefits beginning with benefits payable for the month of January 1974; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself and Mr. LONG of Maryland):

H.R. 10145. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of Illinois (for himself, Mr. ARCHER, and Mr. ESHLEMAN):

H.R. 10146. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. ARCHER:

H.R. 10147. A bill to provide for annual audits by the Comptroller General of the Federal Reserve Board and the Federal Reserve banks and their branches; to the Committee on Banking and Currency.

H.R. 10148. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. ASPIN:

H.R. 10149. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968

to enable units of general local government to increase the numbers of police; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 10150. A bill to regulate interstate commerce by amending the Federal Food, Drug, and Cosmetic Act to provide for the licensing of vessels and establishments used in the harvesting, processing, displaying, and selling of fish and fishery products, for the inspection of the vessels and establishments after licensing, and for cooperation with the States in the regulation of intrastate commerce with respect to State fish inspection programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 10151. A bill to amend title 38 of the United States Code to make more equitable the procedures for determining eligibility for benefits under the laws administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BOWEN:

H.R. 10152. A bill to provide for the establishment of an American Folk Life Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

H.R. 10153. A bill to amend the Communications Act of 1934 for 1 year with regard to the broadcasting of certain professional home games; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. BIESTER, Mr. COHEN, and Mr. DIGGS):

H.R. 10154. A bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to expand the definition of "development disability" to include autism; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. ANDERSON of California, Mr. BELL, Mr. BURTON, Mr. DEL CLAWSON, Mr. CONYERS, Mr. CRONIN, Mr. DANIELSON, Mr. DELLENBACK, Mr. DELLUMS, Mr. EDWARDS of California, Mrs. GREEN of Oregon, Mrs. HANSEN of Washington, Mr. HAWKINS, Mr. HOSMER, Mr. JOHNSON of California, Mr. LEGGETT, Mr. MAILLIARD, Mr. MCCORMACK, Mr. MEEDS, Mr. METCALFE, Mr. MITCHELL of Maryland, Mr. NIX, Mr. PETTIS, and Mr. RANGEL):

H.R. 10155. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. REES, Mr. RIEGLE, Mr. ROE, Mr. ROYBAL, Mr. SISK, Mr. STOKES, Mr. WALDIE, and Mr. CHARLES H. WILSON of California):

H.R. 10156. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts:

H.R. 10157. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

By Mr. CRONIN:

H.R. 10158. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. GUNTER:

H.R. 10159. A bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces; to the Committee on Armed Services.

By Mr. HARRINGTON:

H.R. 10160. A bill to amend the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. HARVEY:

H.R. 10161. A bill to accelerate the effective date of the recently enacted cost-of-living increase in social security benefits; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts (for herself, Mr. YOUNG of Georgia, Mr. DAVIS of Georgia, Mrs. HOLT, Mr. Moss, Mr. CONLAN, Mr. CRONIN, Mrs. CHISHOLM, Mr. CLEVELAND, Mr. HINSHAW, Mr. ANDERSON of Illinois, and Mr. COHEN):

H.R. 10162. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

By Mr. HELSTOSKI:

H.R. 10163. A bill to provide financial assistance to the States for improved educational services for handicapped children; to the Committee on Education and Labor.

By Mr. HINSHAW:

H.R. 10164. A bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, Santa Ana and San Diego in the State of California; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of Pennsylvania:

H.R. 10165. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. KEATING (for himself, Mr. KEMP, Mr. ARCHER, Mr. ARMSTRONG, Mr. BLACKBURN, Mr. CRANE, Mr. WILLIAMS, Mr. STEELMAN, Mr. DERWINSKI, Mr. KETCHUM, Mr. SYMMS, Mr. TREEN, Mr. COLLINS of Texas, Mr. LONG of Maryland, Mr. STEIGER of Arizona, and Mr. ASHBROOK):

H.R. 10166. A bill to repeal the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. KEATING (for himself, Mr. MOLLOHAN, Mr. HOWARD, Mr. BAKER, Mr. HOSMER, Mr. PODELL, Mr. HECHLER of West Virginia, Mr. WHITEHURST, Mr. ROSE, Mr. ROSENTHAL, Mr. JOHNSON of Pennsylvania, Mr. MCDADE, Mr. CONTE, Mr. FLOOD, Mr. CLANCY, Mr. MITCHELL of Maryland, Mr. BROYHILL of North Carolina, Mr. BRECKINRIDGE, Mr. JONES of Oklahoma, Mr. WARE, Mr. CHARLES H. WILSON of California, Mr. MOAKLEY, Mr. MAYNE, Mr. BUCHANAN, and Mr. WINN):

H.R. 10167. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical, and other counseling services for transient youth, and for other purposes; to the Committee on Education and Labor.

By Mr. KEATING (for himself, Mr. CHARLES WILSON of Texas, Mrs. CHISHOLM, Mr. GILMAN, Mr. BRASCO, Mrs. BOGGS, Mr. MURPHY of New York, Mr. ECKHARDT, Mrs. COLLINS of Illinois, Mr. MAZZOLI, Mr. COHEN, Mr. RHODES, Mr. EILBERG, Mr. DANIELSON, Mr. STEELE, Mr. KEMP, Mr. KUYKENDALL, Mr. GERALD R. FORD, Mr. FRENZEL, Mr. HOGAN, and Mr. SARBANES):

H.R. 10168. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical, and other counseling services for transient youth, and for other purposes; to the Committee on Education and Labor.

By Mr. LANDRUM:

H.R. 10169. A bill to amend section 101 (1) (3) of the Tax Reform Act of 1969 in respect of the application of section 4942(d) of the Internal Revenue Code of 1954 to private foundations subject to section 101(1) (4) of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 10170. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mrs. MINK (for herself, Mr. FRASER, Mr. STARK, and Mr. WALDIE):

H.R. 10171. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities designed to achieve educational equity for all students, men, and women, and for other related educational purposes; to the Committee on Education and Labor.

By Mrs. MINK (for herself, Ms. ABZUG, Mr. ASPIN, Mr. BEVILL, Mr. BINGHAM, Mr. BROWN of California, Mrs. CHISHOLM, Mr. CLAY, Mr. DRINAN, Mr. EDWARDS of California, Mr. HELSTOSKI, Mr. HOWARD, Mr. LEGGETT, Mr. LEHMAN, Mr. MOSS, Mr. NEDZI, Mr. RANGEL, Mr. REES, Mr. ROSE, Mr. ROYBAL, Mr. TIERNAN, Mr. CHARLES H. WILSON of California, and Mr. WON PAT):

H.R. 10172. A bill to amend title 5 of the United States Code to provide that whoever contributes more than $5,000 to the political campaign of a Presidential candidate shall be ineligible to serve as an ambassador, minister, head of an executive department, or a member of an independent regulatory body while such candidate is President; to the Committee on Post Office and Civil Service.

By Mr. NELSEN:

H.R. 10173. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN (for himself, Mr. MARTIN of North Carolina, Mr. RUPPE, and Mr. WIDNALL):

H.R. 10174. A bill, Emergency Medical Services System Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN (for himself, Mr. DEVINE, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, Mr. REGULA, Mr. ZWACH, Mr. FISH, Mr. PEYSER, Mr. GILMAN, Mr. BURGENER, Mr. O'BRIEN, Mr. COUGHLIN, Mr. JOHNSON of Colorado, Mr. TALCOTT, Mr. MIZELL, Mr. YOUNG of Illinois, Mr. HUBER, Mr. MCCLORY, Mr. LOTT, Mr. WINN, Mr. QUIE, Mr. FRENZEL, and Mr. ANDERSON of Illinois):

H.R. 10175. A bill, Emergency Medical Systems Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mrs. BOGGS, Mr. BROWN of California, Mr. DIGGS, Mr. EILBERG, Mr. FLOOD, Mr. GINN, Mr. HANNA, Mr. JOHNSON of Pennsylvania, Mr. MATSUNAGA, Mr. PODELL, Mr. REES, Mr. RIEGLE, Mr. ROE, Mr. ROONEY of Pennsylvania, Mr. ROSENTHAL, Mr. ROUSH, Mr. ROYBAL, Mr. SARBANES, Mr. STUDDS, Mr. CHARLES H. WILSON of California, and Mr. WINN):

H.R. 10176. A bill to amend the Elementary and Secondary Education Act of 1965 to provide for drug abuse therapy programs in schools; to the Committee on Education and Labor.

By Mr. REID:

H.R. 10177. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. SAYLOR:

H.R. 10178. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements; to the Committee on Banking and Currency.

By Mr. SCHERLE:

H.R. 10179. A bill to amend title 38, United States Code, to provide veterans a 10-year delimiting period for completing educational programs; to the Committee on Veterans' Affairs.

By Mr. SISK:

H.R. 10180. A bill to prohibit the telecasting of professional basketball games during certain periods when regularly scheduled intercollegiate or interscholastic basketball or football games are played, and for other purposes; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. ASHLEY, Mr. PODELL, Mr. MOLLOHAN, Mr. STUCKEY, Mr. MOORHEAD of Pennsylvania, Mrs. BOGGS, Mr. CONLAN, Mr. DRINAN, Mr. SARBANES, Mr. WIDNALL, Mr. MANN, Mr. STEIGER of Wisconsin, Mr. GUNTER, Mr. CORMAN, Ms. JORDAN, Mr. ROE, Mr. HELSTOSKI, Mr. CHARLES H. WILSON of California, Mr. OWENS, Mr. HARRINGTON, Mr. THOMPSON of New Jersey, Ms. ABZUG, Mr. WARE, and Mr. HAWKINS):

H.R. 10181. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. STARK (for himself Mr. CARNEY of Ohio, Mr. ECKHARDT, Mr. RANGEL, Mr. STOKES, Mr. DELLUMS, Mr. CONYERS, Mr. LITTON, Mr. STUDDS, Mrs. CHISHOLM, and Mr. ROYBAL):

H.R. 10182. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. SYMMS:

H.R. 10183. A bill to prohibit the licensing of hydroelectric projects on the Middle Snake River below Hells Canyon Dam at any time before September 30, 1978; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN (for himself and Mr. ROUSH):

H.R. 10184. A bill to authorize the disposal of approximately 258,700 short tons of copper from the national stockpile and the supplemental stockpile and limit exports of copper and copper scrap; to the Committee on Armed Services.

Mr. WHITEHURST (for himself, Mr. WOLFF, and Mr. WON PAT):

H.R. 10185. A bill to amend the Federal law relating to the care and treatment of animals to broaden the categories of persons regulated under such law, to assure that birds in pet stores and zoos are protected, and to increase protection for animals in transit; to the Committee on Agriculture.

By Mr. WHITEHURST (for himself and Mr. WON PAT):

H.R. 10186. A bill to amend the Horse Protection Act of 1970, to provide for criminal sanctions for any person who interferes with any person while engaged in the performance of his official duties under this act, and to change the authorization of appropriations; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST (for himself, Mrs. BOGGS, Mr. MATSUNAGA, and Mr. MOAKLEY):

H.R. 10187. A bill to amend title 38, United States Code, to provide that remarriage of the widow of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. WYLIE:

H.R. 10188. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ZWACH:

H.R. 10189. A bill to amend Public Law 92-181 (85 Stat. 383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. BADILLO:

H.R. 10190. A bill to encourage and coordinate amateur athletic activity and promote physical fitness in the United States and in international competition in which American citizens participate, and for other purposes; to the Committee on Education and Labor.

By Mr. BROWN of California:

H.R. 10191. A bill to amend the National Science Foundation Act of 1950 to provide for the development of a system of continuous monitoring and forecasting of air pollution levels in certain regions with persistent air pollution problems, and for other purposes; to the Committee on Science and Astronautics.

By Mr. MCFALL:

H.R. 10192. A bill to amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. SATTERFIELD:

H.R. 10193. A bill relating to collective bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

By Mr. GILMAN (for himself, Mr. HUBER, Mr. MITCHELL of New York, Mr. WALSH, Mr. WOLFF, Mr. STEELMAN, Mr. PRITCHARD, Mr. RONCALLO of New York, Mr. KETCHUM, and Mr. FISH):

H.J. Res. 716. Joint resolution providing for a Congressional investigation into the status of those American men missing, captured, or dead in Southeast Asia, and for other purposes; to the Committee on Rules.

By Mr. LANDGREBE:

H.J. Res. 717. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. HUBER (for himself, Mr. BOWEN, Mr. CONLAN, Mr. HOGAN, Mrs. HOLT, Mr. MCEWEN, Mr. MINISH, Mr. NICHOLS, Mr. SATTERFIELD, Mr. SHOUP, Mr. SHRIVER, Mr. CHARLES WILSON of Texas, Mr. WINN, Mr. WON PAT, and Mr. YOUNG of South Carolina):

H. Con. Res. 293. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. TALCOTT:

H. Con. Res. 294. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

295. The SPEAKER presented a memorial of the Senate of the State of Ohio, relative to clarification of abortion laws and decisions; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANNA:

H.R. 10194. A bill for the relief of Mr. Peter J. Montganoli; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 10195. A bill for the relief of Modesto Marroquin-Merla; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 10196. A bill for the relief of Edward E. Mosier; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause I of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

274. By the SPEAKER: Petition of Louis Berenguer, Flushing, N.Y., relative to impeachment of a U.S. district court judge; to the Committee on the Judiciary.

275. Also, petition of the Iowa Conference, Churches of God in North America, Sutherland, Iowa, relative to protection of the rights of the unborn, the aged, and the infirm; to the Committee on the Judiciary.

276. Also, petition of Milton Mayer, New York, N.Y., relative to redress of grievances; to the Committee on the Judiciary.

277. Also, petition of the Conference of State Sanitary Engineers, Berkeley, Calif., relative to funding of the water pollution control program; to the Committee on Public Works.